

2004 No. 1468

ENERGY CONSERVATION

**The Energy Information (Household Refrigerators and Freezers)
Regulations 2004**

<i>Made</i> - - - -	<i>27th May 2004</i>
<i>Laid before Parliament</i>	<i>3rd June 2004</i>
<i>Coming into force</i> - -	<i>1st July 2004</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2)(b) of the European Communities Act 1972(c) in relation to measures relating to energy labelling and standard product information for household products, in exercise of the powers conferred on her by section 2(2) of that Act hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Energy Information (Household Refrigerators and Freezers) Regulations 2004 and shall come into force on 1st July 2004.

Interpretation

2.—(1) In these Regulations—

- (a) “the Refrigerators and Freezers Directive” means Commission Directive 94/2/EC(d) as amended by Commission Directive 2003/66/EC(e) implementing Council Directive 92/75/EEC(f) with regard to energy labelling of household electric refrigerators, freezers and their combinations;
- (b) “the Parent Directive” means 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; and
- (c) “the Directives” means the Refrigerators and Freezers Directive and the Parent Directive.

(2) In these Regulations, expressions used which are also used in the Directives have the same meaning as in the Directives and—

(a) S.I. 1992/1711.

(b) The enabling powers in section 2(2) of this Act were extended by virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act 1993 (c.51). The requirements of the Directives are reserved matters for both Scotland (product labelling is covered by Head C8 - Product standards, safety and liability in Part II (Specific reservations) of Schedule 2 to the Scotland Act (c.46)), and Northern Ireland (in accordance with paragraph 38 (Technical standards and requirements in relation to products in pursuance of an obligation under Community law) of Schedule 3 (Reserved Matters) to the Northern Ireland Act 1998 (c.47)). The power has not been transferred to the National Assembly for Wales.

(c) 1972 c.68.

(d) OJ No. L 45, 17.2.1994, p. 1.

(e) OJ No. L 170, 9.7.2003, p. 10.

(f) OJ No. L 297, 13.10.1992, p. 16.

“the 1994 Regulations” means the Energy Information (Refrigerators and Freezers) Regulations 1994(a);

“communication”, as a means by way of which appliances are offered for sale, means a printed or written communication or other means whereby the potential customer cannot be expected to see the appliance displayed, such as a written offer, a mail order catalogue, advertisements on the internet or other electronic media;

except for the reference to the Community in regulation 6(3), a reference to the Community includes a reference to the EEA(b);

“dealer” means a retailer or other person who offers for sale, displays or sells household appliances to end-users;

“EEA” means the European Economic Area created by the EEA Agreement;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993 and the Amending Agreement signed at Luxembourg on 14th October 2003;

“enforcement authorities” means—

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

(b) in Northern Ireland, the Department of Enterprise, Trade and Investment;

“the harmonized standards” means EN 153:1995(d);

“information sheet” means a standard table of information relating to the appliance in question;

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

“regulated appliance” has the meaning given by regulation 3(3);

“sale” includes hire and hire-purchase and related expressions shall be construed accordingly;

“supplier” means the manufacturer or his authorised representative in the Community or the person who places the product on the Community market.

Scope

3.—(1) Subject to paragraph (2), these Regulations apply to electric mains operated household—

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

and their combinations, whether or not they are sold or displayed for non-household use.

(2) These Regulations do not apply to—

- (a) the rating plate or its equivalent affixed for safety purposes to an appliance; or
- (b) appliances that may also use other energy sources, such as batteries.

(a) S.I. 1994/3076 as amended by S.I. 2001/3142.

(b) The parent Directive was extended to the European Economic Area by EEA Joint Committee Decision No 7/94 of 21st March 1994 (OJ No. L 160, 28.6.1994, p. 1) and the Refrigerators and Freezers Directive was extended by EEA Joint Committee Decision 22/98 of 17th December 1998 (OJ No. L 342, 17.12.1998, p. 32) and EEA Joint Committee Decision 19/2004 of 19th March 2004, which has yet to be published in the Official Journal.

(c) 1985 c.72, as amended by paragraph 75 of Schedule 16 to the Local Government (Wales) Act 1994 and paragraph 144 of Schedule 13 to the Local Government (Scotland) Act 1994 (c.39).

(d) European standard EN 153 of 1995 entitled “Methods of measuring the energy consumption of electric mains operated household refrigerators, frozen food storage cabinets, food freezers and their combinations, together with associated characteristics” (OJ No C 065, 1.3.1997, p. 16), which is transposed in the United Kingdom by British Standard BS EN 153:1996 of the same title published by the British Standards Institution on 15th April 1996.

(3) A household appliance to which these Regulations apply is referred to as a regulated appliance.

Other Exclusions

4.—(1) Nothing in these Regulations shall apply to—

- (a) appliances placed on the Community market before 1st July 2004; or
- (b) second hand appliances.

(2) There shall be no obligations on a supplier to establish technical documentation, supply labels or provide information sheets in respect of a household appliance intended for use only in a country outside the Community and which he has reasonable grounds to believe will be used outside the Community.

(3) There shall be no obligations on a dealer to display labels in respect of a household appliance intended for use only in a country outside the Community and which he has reasonable grounds to believe will be used outside the Community.

(4) There shall be no obligations on any person who offers for sale by way of a communication a household appliance intended for use only in a country outside the Community and which he has reasonable grounds to believe will be used outside the Community.

Obtaining the information required by these Regulations

5.—(1) The information required by regulations 6, 7, 8 and 9 shall be obtained by measurements made in accordance with the harmonized standards.

(2) Where a supplier provides information relating to noise, it shall be measured in accordance with Council Directive 86/594/EEC(a) on airborne noise emitted by household appliances, and the provisions of Schedules 1, 2 and 3 to these Regulations relating to noise information shall apply.

(3) Information obtained other than in accordance with paragraphs (1) and (2) shall be taken for the purposes of these Regulations not to meet the relevant requirements.

Placing on the Community market: technical documentation

6.—(1) No supplier shall place on the Community market a regulated appliance unless he has established technical documentation sufficient to enable the accuracy of the information contained in a label or information sheet to be assessed.

(2) The technical documents referred to in paragraph (1) shall include—

- (a) the name and address of the suppliers;
- (b) a general description of the appliance, sufficient for it to be identified;
- (c) information, including drawings as relevant, on the main design features of the model and in particular items which appreciably affect its energy consumption;
- (d) reports of relevant measurement tests carried out under the harmonized standards;
- (e) details of such calculations, extrapolations or both, as the case may be, and of tests undertaken to verify the accuracy of the calculations undertaken (details of the mathematical model for calculating performance and of measurements taken to verify this model) where the information relating to a particular model combination has been obtained by calculation on the basis of design, extrapolation from other combinations or both;
- (f) operating instructions, if any.

(a) OJ L No. 344, 6.12.1986, p. 24. This Directive was transposed by the Household Appliances (Noise Emission) Regulations 1990 (S.I. 1990/161 as amended by S.I. 1994/1386); see regulation 4 of those Regulations requiring that where noise information is given, it must be determined in accordance with Council Directive 86/594/EEC.

(3) For the purposes of paragraphs (1) and (2), the supplier may use documentation already required on the basis of relevant Community legislation.

(4) The supplier shall make the technical documentation available for inspection by enforcement authorities for a period ending five years after the last regulated appliance of the model has been manufactured.

Suppliers' duties in respect of labels

7.—(1) Any supplier placing on the Community market a regulated appliance shall supply a label in accordance with this regulation.

(2) The label shall comply with Schedule 1 (the label) and the energy efficiency class indicated shall be determined in accordance with Schedule 5 (energy efficiency class).

(3) A supplier shall supply the necessary labels free of charge to dealers.

(4) A supplier may choose his own system for delivery of labels.

(5) Where the dealer requests labels from the supplier, the supplier shall ensure that the requested labels are delivered promptly.

Suppliers' duties in respect of information sheets

8.—(1) A supplier of a regulated appliance shall provide an information sheet in accordance with this regulation.

(2) The information sheet shall satisfy the following requirements—

(a) it shall be in the relevant language version;

(b) the content and form shall be as specified in Schedule 2 (the information sheet);

(c) the category of the appliance shall be determined in accordance with Schedule 4 (categories of appliance) for the purposes of complying with paragraph 1(3) of that Schedule; and

(d) the energy efficiency class indicated shall be determined in accordance with Schedule 5 (energy efficiency class) for the purposes of complying with paragraph 1(4) of that Schedule.

(3) Where the supplier provides a product brochure with a regulated appliance, the brochure shall contain the information sheet.

(4) Where no brochure is provided with a regulated appliance, the supplier shall provide the information sheet with any other literature provided.

Suppliers' duty in respect of the accuracy of information

9.—(1) For the purposes of these Regulations only, it shall be the duty of a supplier to ensure that the information in an information sheet or on a label which he supplies to a dealer is accurate.

(2) Paragraph (1) is without prejudice to any right of action which any person may have apart from these Regulations whether against the supplier, dealer or any other person arising from any inaccuracy of information in an information sheet or label.

Suppliers' deemed consent to publication of information

10. The supplier shall be deemed to consent to the publication of the information given on a label or in an information sheet.

Dealers' duty in respect of displayed appliances

11. A dealer who displays a regulated appliance shall attach the label provided by the supplier for that appliance to the outside front or top of the appliance so that the label remains clearly visible and not obscured whenever the appliance is displayed.

Information in respect of mail order and other distance selling

12. Where a person offers an appliance for sale by means of a communication, that person shall ensure that the communication—

- (a) is in the relevant language;
- (b) includes the information specified in Schedule 3 (mail order and other distance selling) and describes the appliance in accordance with Schedules 4 (categories of appliance) and 5 (energy efficiency class); and
- (c) where other information is provided, if it is required to be contained in an information sheet it shall be included with the information required by sub-paragraph (b) above in the form defined and the order specified in Schedule 2.

Misleading information

13.—(1) A person shall not display any label, mark, symbol or inscription (other than those required by these Regulations) which relates to the energy consumption of an appliance and which does not comply with the requirements of these Regulations, if such display is likely to mislead or confuse.

(2) Paragraph (1) shall not apply to a label, mark, symbol or inscription displayed under a Community or national environmental labelling scheme^(a).

(3) Paragraph (1) shall not apply to a label, mark, symbol or inscription displayed pursuant to the 1994 Regulations.

Presumption of compliance

14. Unless there is evidence to the contrary, labels and information sheets are deemed to comply with the provisions of these Regulations.

Enforcement and offences

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

(2) Nothing in these Regulations shall authorise an enforcement authority in Scotland to bring proceedings for an offence.

(3) Schedule 6 shall have effect with regard to offences, enforcement of these Regulations and other related matters.

Transitional provisions

16. Where a regulated appliance is placed on the Community market on or before 30th December 2004, the use of labels, information sheets or communications relating thereto, in respect of which the requirements of these Regulations are not complied with shall be permitted, provided that the provisions of the 1994 Regulations are complied with.

Revocation and saving

17.—(1) Subject to paragraph (2), the 1994 Regulations and the Energy Information and Energy Efficiency (Miscellaneous Amendments) Regulations 2001^(b) to the extent that they amend the 1994 Regulations shall be revoked on 31st December 2004.

(2) The provisions of the 1994 Regulations shall continue to apply—

- (a) to an appliance placed on the Community market before 1st July 2004; or

^(a) See, for example, European Parliament and Council Regulation 1980/2000 (OJ No. L237, 21/09/2000, p. 1).

^(b) S.I. 2001/3142.

- (b) to a regulated appliance placed on the Community market on or after 1st July 2004 but before 31st December 2004 where the information required to be provided was obtained by measurements made in accordance with EN 153: 1990(a).

Address
Date: 27th May 2004

Whitty
Parliamentary Under-Secretary of State,
Department for Environment, Food and Rural Affairs

(a) European standard EN 153 of 1990 entitled "Methods of measuring the energy consumption of electric mains operated household refrigerators, frozen food storage cabinets, food freezers and their combinations, together with associated characteristics", which is transposed in the United Kingdom by British Standard BS EN 153:1990 of the same title published by the British Standards Institution on 31st December 1990.

SCHEDULE 1

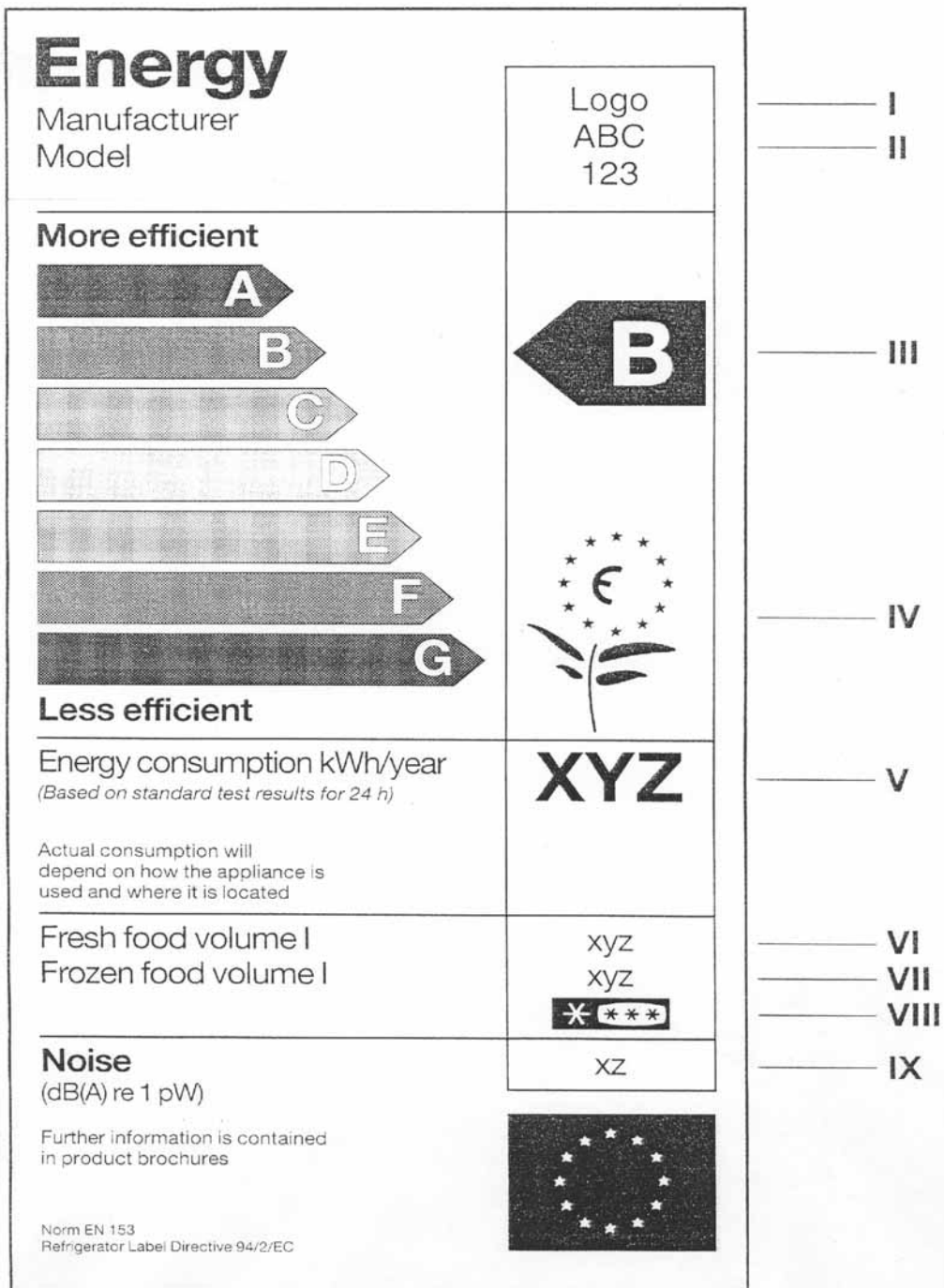
Regulations 5(2) and 7(2)

THE LABEL

Label design

1. The label shall be in accordance with Figure 1 and shall include the information required by the notes.

Figure 1



Notes to Figure 1

2. The following notes define the information to be included—

Note

- I. Supplier's name or trade mark.
- II. Supplier's model identifier.
- III. The energy efficiency class of an appliance shall be determined in accordance with Schedule 5 (energy efficiency class). The appropriate letter shall be placed at the same level as the relevant arrow.
- IV. Without prejudice to any requirements under the Community Eco-label award scheme, where an appliance has been granted a "Community Eco-label award" pursuant to Council Regulation (EEC) No 880/92(a) a copy of the Eco-award mark (the flower) may be added here.
- V. Energy Consumption in accordance with the harmonised standards but expressed in kWh per year (i.e. per 24 hours x 365).
- VI. Sum of net storage volume of all compartments which do not merit a star rating (i.e. operating temperature > -6 degrees centigrade ("°C")).
- VII. Sum of net storage volume of all frozen food storage compartments which merit a star rating (i.e. operating temperature ≤ -6°C).
- VIII. Star rating of frozen food storage compartment, in accordance with the harmonised standards. Where this compartment does not merit any stars, this position shall be left blank.
- IX. Noise, where applicable(b).

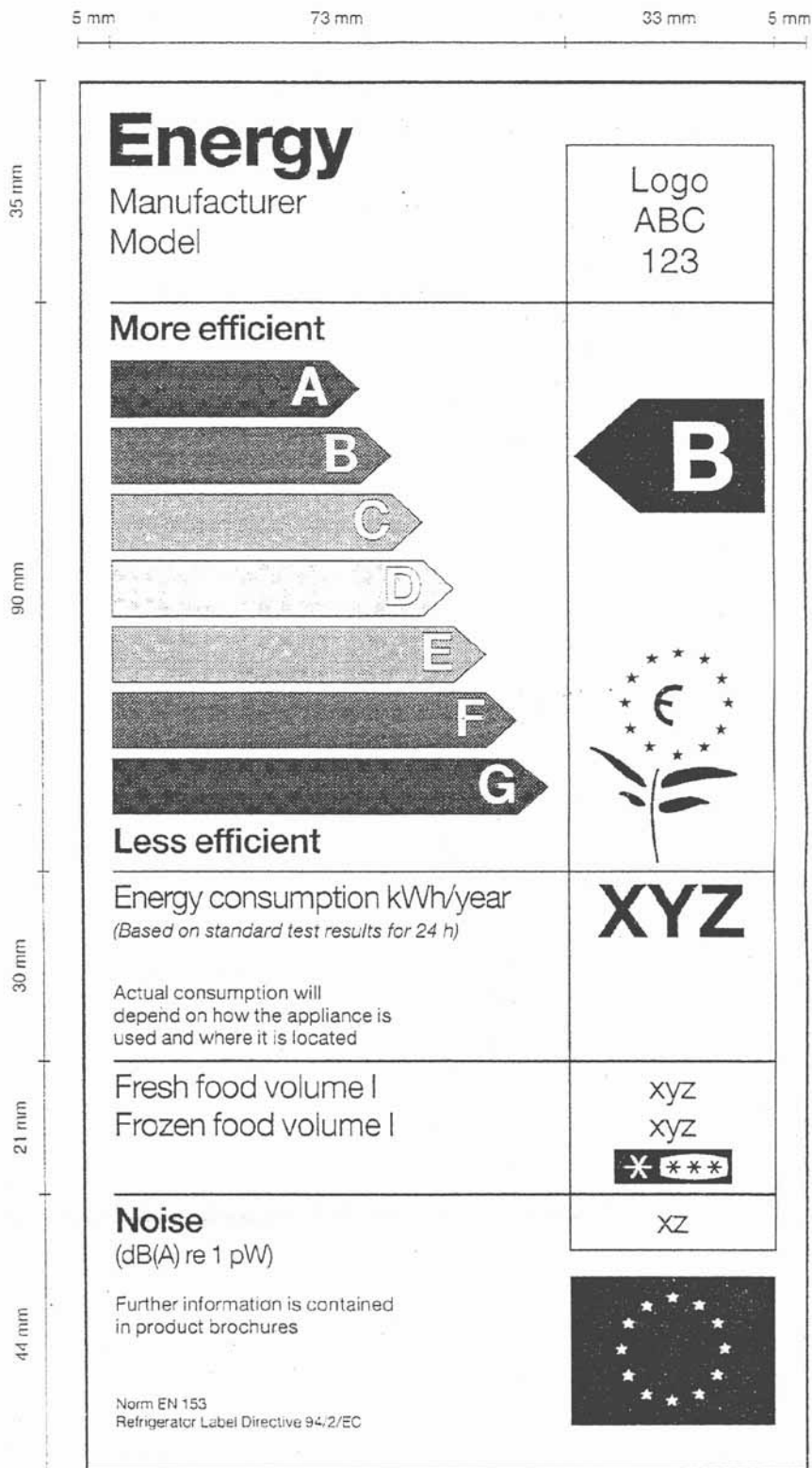
Printing

3.—(1) Figure 2 defines certain aspects of the label.

(a) OJ No. L 099, 11.04.1992, p. 1. This Regulation has been replaced by European Parliament and Council Regulation 1980/2000 (OJ L 237, 21.09.2000, p.1) although decisions based on the 1992 Regulation remain in force until they are revised or have expired.

(b) Where noise information is provided, the Household Appliances (Noise Emission) Regulations 1990 apply (S.I. 1990/161 as amended by S.I. 1994/1386).

Figure 2



(2) The indicator letter for A+ and A++ appliances shall be in accordance with the following illustrations, and shall be placed in the same position as the A indicator for A class appliances.



(3) Colours are to be used on the label in accordance with the following—

CMYK: cyan, magenta, yellow, black.

Example: 07X0: 0% cyan, 70% magenta, 100% yellow, 0% black.

Arrows:

—A: X0X0

—B: 70X0

—C: 30X0

—D: 00X0

—E: 03X0

—F: 07X0

—G: 0XX0

Outline colour X070.

All text is in black. The background is white.

SCHEDULE 2 Regulations 5(2), 8(2)(b) and 12(c)

THE INFORMATION SHEET

1. The information sheet shall contain the information specified below. The information may be given in the form of a table covering a number of appliances supplied by the same supplier, in which case it shall be given in the order specified, or given in the description of the appliance.

(1) Supplier's name or trade mark.

(2) Supplier's model identifier.

(3) Type of appliance as follows—

<i>Category</i>	<i>Description in information sheet</i>
1	Larder fridge
2	Refrigerator/chiller
3	Refrigerator
4	Refrigerator
5	Refrigerator
6	Refrigerator
7	Fridge/freezer
8	Upright freezer
9	Chest freezer
10	The supplier may choose its description of the type of appliance

(4) The energy efficiency class of the model as defined in Schedule 5 (energy efficiency class), expressed as “Energy Efficiency class... on a scale of A++ (most efficient) to G (least efficient)”.

Where this information is provided in a table this may be expressed by other means provided it is clear that the scale is from A++ (most efficient) to G (least efficient).

(5) Where the information is provided in a table, and where some of the appliances listed in the table have been granted a “Community Eco-label” under Regulation (EEC) No. 880/92(a), this information may be included here. In this case the row heading shall state “Community Eco-label award” and the entry shall consist of a copy of the Eco-award mark (the flower). This provision is without prejudice to any requirements under the Community Eco-label award scheme.

(6) Energy consumption in accordance with the harmonised standards but expressed in kWh per year (i.e. per 24 hours x 365), described as: “energy consumption XYZ kWh per year, based on standard test results for 24 hours. Actual energy consumption will depend on how the appliance is used and where it is located”.

(7) Except for categories 2, 8, 9 and 10, the net storage volume of the fresh food storage compartment (5°C) in accordance with the harmonised standards.

(8) Except for categories 1, 2, 3 and 10, the net storage volume of the frozen food storage compartment, and of the chill compartment when available, in accordance with the harmonised standards.

(9) For categories 2 and 10, the net storage volume of each compartment in accordance with the harmonised standards.

(10) For category 3 appliances, the net storage volume of the “ice box”.

(11) Star rating of the frozen food storage compartment, if any, in accordance with the harmonised standards.

(12) The statement “no frost” may be included here when in accordance with the definitions given in the harmonised standards.

(13) “Power cut safe Z h” defined as “temperature rise time” in accordance with the harmonised standards.

(14) “Freezing capacity” in kg/24 hours in accordance with the harmonised standards.

(15) “Climate class” in accordance with the harmonised standards. Where the appliance is of ‘temperate’ climate class this may be omitted.

(16) “Noise”, where applicable(b).

(17) If the model is produced in order to be built-in, this should be stated.

2. Where an appliance contains compartments other than a single fresh food compartment and a single frozen food compartment, extra lines may be added in respect of information to be given pursuant to paragraph 1(7), (8), (9), (10), (11), (12), (13), (14) and (15) above to include the information in respect of these compartments. In this case the naming and order of listing of the compartments shall be consistent. Where the design temperature of a compartment does not conform to the star rating system, or the standard fresh food compartment temperature (5°C), this design temperature shall be given.

3. The information contained in the label may be given in the form of a copy of the label, either in colour or in black and white. In this case the further information given only in the information sheet must still be included.

(a) OJ No. L 099, 11.04.1992, p. 1. This regulation has been replaced by European Parliament and Council Regulation 1980/2000 (OJ No. L 237, 21/09/2000, p. 1) although decisions based on the 1992 Regulation remain in force until they are revised or have expired.

(b) Where noise information is provided, the Household Appliances (Noise Emission) Regulations 1990 apply (S.I. 1990/161 as amended by S.I. 1994/1386).

SCHEDULE 3

Regulations 5(2) and 12(b)

MAIL ORDER AND OTHER DISTANCE SELLING

1.—(1) Mail order catalogues and other communications shall contain the following information, given in the order specified below—

- (a) energy efficiency class of the model in accordance with paragraph (4) of Schedule 2 (energy efficiency class);
- (b) energy consumption in accordance with paragraph (6) of Schedule 2 (energy consumption);
- (c) net storage volume of the fresh food storage compartment (5°C) in accordance with paragraph (7) or, as the case may be, paragraph (9) of Schedule 2 (net storage volume);
- (d) net storage volume of the frozen food storage compartment, and of the chill compartment when available, in accordance with paragraph 1(8) or, as the case may be, paragraph 1(9) or (10) of Schedule 2 (net storage volume);
- (e) star rating in accordance with paragraph (11) of Schedule 2;
- (f) noise, where applicable(a).

(2) The size and font, in which all the information referred to in paragraph above is printed, shall be legible.

SCHEDULE 4

Regulations 8(2)(c) and 12(b)

CATEGORIES OF APPLIANCE

1. The appliances covered by the Directive shall be divided up into the following ‘categories’:—

<i>Category</i>	<i>Description</i>
1	Household refrigerators, without low temperature compartments
2	Household refrigerator/chillers, with compartments at 5° and/or 10°
3	Household refrigerators, with no-star low temperature compartments
4	Household refrigerators, with low temperature compartments *
5	Household refrigerators, with low temperature compartments **
6	Household refrigerators, with low temperature compartments ***
7	Household refrigerator/freezers, with low temperature compartments *(***)
8	Household food freezers, upright
9	Household food freezers, chest
10	Household refrigerators and freezers with more than two doors, or other appliances not covered above

(a) Where noise information is provided, the Household Appliances (Noise Emission) Regulations 1990 apply (S.I. 1990/161 as amended by S.I. 1994/1386).

ENERGY EFFICIENCY CLASS

PART 1

Definitions of Classes A+ and A++

1.—(1) An appliance shall be classified as A+ or A++ where the energy efficiency index alpha (I_α) is within the ranges specified in Table 1.

Table 1

<i>Energy efficiency index α (I_α)</i>	<i>“Energy efficiency class”</i>
$30 > I_\alpha$	A++
$42 > I_\alpha \geq 30$	A+
$I_\alpha \geq 42$	A to G (see below)

(2) The energy efficiency index alpha shall be calculated using the formula:

$$I_\alpha = \frac{AC}{SC_\alpha} \times 100$$

where—

“AC” means the annual energy consumption of the appliance (in accordance with the harmonised standards); and

“ SC_α ” means the standard annual energy consumption α of the appliance.

SC_α is calculated as:

$$M_\alpha X \sum_{\text{Compartments}} \left(Vc \times \frac{(25 - Tc)}{20} \times FF \times CC \times BI \right) + N_\alpha + CH$$

where—

“Vc” means the net volume (in litres) of the compartment (in accordance with the harmonised standards);

“Tc” is the design temperature (in °C) of the compartment;

the values of M_α and N_α are given in Table 2; and

the values of FF, CC, BI and CH are given in Table 3.

Table 2

<i>Type of appliance</i>	<i>Temperature of coldest compartment</i>	<i>M_a</i>	<i>N_a</i>
1. Larder Fridge	>-6°C	0.233	245
2. Refrigerator/chillers	>-6°C	0.233	245
3. Refrigerator no star	>-6°C	0.233	245
4. Refrigerator*	≤-6°C *	0.643	191
5. Refrigerator**	≤-12°C **	0.450	245
6. Refrigerator***/ 7. Fridge/freezer *(***)	≤-18°C ***/*(***)	0.777	303
8. Upright freezer	≤-18°C *(***)	0.539	315
9. Chest freezer	≤-18°C *(***)	0.472	286
10. Multi-door or other appliance		(1)	(1)

⁽¹⁾ For these appliances, the temperature and star rating of the compartment with the lowest temperature will determine the values of M and N. Appliances with -18°C *(***) compartments shall be considered as fridge-freezers *(***)

Table 3

<i>Correction factor</i>	<i>Value</i>	<i>Conditions</i>
FF (frost free)	1.2	For “frost free” (ventilated) frozen food compartments;
	1	Otherwise
CC (climate class)	1.2	For “tropical” appliances;
	1.1	For “subtropical” appliances;
	1	Otherwise
BI (built-in)	1.2	For built-in appliances ⁽¹⁾ of under 58cm in width;
	1	Otherwise
CH (chill compartment)	50 Kwh/y	For appliances with a chill compartment of at least 15 litres;
	0	Otherwise

⁽¹⁾ An appliance is “built-in” only if it is designed exclusively for installation within a kitchen cavity with a need of furniture finishings, and tested as such.

(3) If an appliance is not A+ or A++, it shall be classified in accordance with Part 2.

PART 2

Definition of Classes A to G

2. The energy efficiency class of an appliance shall be determined in accordance with Table 4.

Table 4

<i>Energy efficiency index: I</i>	<i>Energy efficiency class</i>
I < 55	A
55 ≤ I < 75	B
75 ≤ I < 90	C
90 ≤ I < 100	D
100 ≤ I < 110	E
110 ≤ I < 125	F
125 ≤ I	G

where—

“energy efficiency index” (expressed as a percentage) = annual energy consumption of appliance in accordance with the harmonised standards / standard annual energy consumption of appliance;

“standard annual energy consumption of appliance” (expressed in kWh/year) = M × adjusted net volume + N;

“adjusted net volume” (expressed in litres) = net volume of fresh food compartment + Ω × net volume of frozen food compartment; and

the values of M, N and Ω are taken from Table 5.

Table 5

<i>Category of Appliance</i>	<i>Ω</i>	<i>M</i>	<i>N</i>
1. Larder fridge	—	0.233	245
2. Refrigerator/chiller	0.75 ⁽¹⁾	0.233	245
3. Refrigerator no star	1.25	0.233	245
4. Refrigerator*	1.55	0.643	191
5. Refrigerator**	1.85	0.450	245
6. Refrigerator***	2.15	0.657	235
7. Fridge/freezer*(***)	⁽³⁾	0.777	303
8. Upright freezer	2.15 ⁽²⁾	0.472	286
9. Chest freezer	2.15 ⁽²⁾	0.446	181
10. Multi-door or other appliances	⁽³⁾	⁽⁴⁾	⁽⁴⁾

⁽¹⁾ For refrigerator/chiller the adjusted volume = net volume of fresh food compartment + Ω × net volume of chiller (10°C) compartment (expressed in litres).

⁽²⁾ For ‘no frost’ appliances as defined in the harmonised standards, this index is increased by a provisional factor of 1.2 giving a value of 2.58 (this allows for the possible bias of the measurement method, which does not allow for the lack of ice build-up on “no frost” appliances. In practice, ice build-up will somewhat increase the consumption of “conventional” appliances).

⁽³⁾ Adjusted net volume (AV) shall be calculated by the formula:

$$AV = \sum_{\text{all compartments}} \frac{(25 - T_c)}{20} \times V_c \times F_c$$

where—

“T_c” is design temperature (in °C) of each compartment;

“V_c” is the net volume (in litres) of each compartment; and

“F_c” is a factor which equals 1.2 for “no frost” compartments and 1 for other compartments.

⁽⁴⁾ For these appliances, the values of M and N shall be determined by the temperature and star rating of the compartment with the lowest temperature, in accordance with Table 6.

Table 6

<i>Temperature of coldest compartment</i>	<i>Equivalent category</i>	<i>M</i>	<i>N</i>
>-6c	1 Larder fridge 2 Refrigerator/chiller 3 No-star refrigerator	0.233	245
≤ -6°C *	4 Refrigerator (*)	0.643	191
≤ -12°C **	5 Refrigerator (**)	0.450	245
≤ -18°C ***	6 Refrigerator (***)	0.657	235
≤ -18°C *(***)	7 Fridge/freezer *(***)	0.777	303
with freezing capacity			

OFFENCES, ENFORCEMENT AND OTHER MATTERS

PART 1

Provisions as to Offences

Offences and penalties

1.—(1) It shall be an offence to contravene or fail to comply with—

- (a) regulation 6 (placing on the Community market: technical documentation);
- (b) regulation 7 (suppliers' duties in respect of labels);
- (c) regulation 8 (suppliers' duties in respect of information sheets);
- (d) regulation 9 (suppliers' duty in respect of the accuracy of information);
- (e) regulation 11 (dealers' duty in respect of displayed appliances);
- (f) regulation 12 (information in respect of mail order and other distance selling);
- (g) regulation 13 (misleading information);
- (h) paragraph 5 of this Schedule (obstruction of authorised officers and false statements);
- (i) paragraph 8(8) of this Schedule (prohibition of purported power of entry, inspection, seizure and detention by unauthorised persons);
- (j) paragraph 12(1) of this Schedule (restrictions on disclosure of information).

(2) A person guilty of the offence of contravening paragraph 12(1) of this Schedule shall be liable, on summary conviction, to a fine not exceeding the statutory maximum, and 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. 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 an enforcement authority or the Director of Public Prosecutions.

Defences

3. 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.

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 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 2

Provisions as to Enforcement

Obstruction of an authorised officer and false statements

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 excuse fail to give to any such officer who is so acting any other assistance or information which he may reasonably require of him for the purpose 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 any material particular; or
- (b) recklessly make a statement which is false in any material particular.

Power of an enforcement authority to require technical documentation

6. Where an enforcement authority has reason to suspect that the information given on a label or in an information sheet is incorrect, the authority may by notice served on the supplier of the regulated appliance to which the label or information sheet refers, require him to furnish to the authority within such reasonable time as may be specified in the notice such technical documentation within the meaning of regulation 6 (placing on the Community market: technical documentation) as the authority considers appropriate.

Test Purchases

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

(2) Where—

- (a) a regulated appliance purchased under this paragraph by or on behalf of an enforcement authority is submitted to a test;
- (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 regulated 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 a regulated appliance purchased under this paragraph, or seized and detained under paragraph 8 (power to enter premises and inspect, seize and detain appliances etc), shall be carried out in accordance with the test procedures of the harmonised standards.

Power to enter premises and inspect, seize and detain regulated appliances etc

8.—(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, enter any premises, other than premises used only as a dwelling, and inspect any appliance;
- (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 (2)(b) and(2)(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, require to be produced, copy or seize, are on any premises and that their inspection, production, copying or seizure 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, which shall continue in force for a period of one month, authorise an officer of an enforcement authority to enter the premises in accordance with the warrant, 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 between 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 9 (appeals against detention), 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

9.—(1) Any person having an interest in any regulated appliance or records which are for the time being detained under paragraph 8 (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 appliance or records to be released to him or to another person.

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

- (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 appliance or records;
- (b) where no such proceedings have been so brought, by way of complaint to a magistrate's 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 appliance 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 a 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^(a) or article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 (statement of case)^(b)).

Compensation for loss etc of appliances or records seized

10.—(1) Where a duly authorised officer of an enforcement authority exercises any power under paragraph 8 (power to enter premises and inspect, seize and detain appliances etc) to seize and detain any regulated appliance or records, the enforcement authority shall be liable to pay compensation to any person having an interest in the appliance 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 regulated appliance 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

11.—(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 regulated appliance or records.

(2) The court may (in addition to any 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 regulated appliance or records.

PART 3

Miscellaneous and Supplemental

Restrictions on disclosure of information

12.—(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

^(a) 1980 c.43.

^(b) S.I. 1981/1675 (N.I. 26).

- (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 section 1 of the Freedom of Information Act 2000(a);
- (e) in pursuance of regulation 3 of the Environmental Information Regulations 1992(b).

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

- (a) the Trade Descriptions Act 1968(c);
- (b) the relevant statutory provisions within the meaning of Part I of the Health and Safety at Work etc Act 1974(d) or within the meaning of the Health and Safety at Work (Northern Ireland) Order 1978(e);
- (c) the Weights and Measures Act 1985(f);
- (d) the Weights and Measures (Northern Ireland) Order 1981(g);
- (e) the Consumer Protection Act 1987(h);
- (f) the Consumer Protection (Northern Ireland) Order 1987(i);
- (g) the Low Voltage Electrical Equipment (Safety) Regulations 1989(j);
- (h) any enactment made for the purpose of securing compliance with Council Directive 84/450/EEC on the approximation of laws, regulations and administrative provisions of the member States concerning misleading advertising(k).

(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—

- (a) a Minister of the Crown, Government department or Northern Ireland department;
- (b) the Office 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).

(a) 2000 c.36.

(b) S.I. 1992/3240 amended by S.I. 1998/1447.

(c) 1968 c.29.

(d) 1974 c.37.

(e) S.I. 1978/1039 (N.I. 9), to which there are amendments not relevant to these Regulations.

(f) 1985 c.72.

(g) S.I. 1981/231 (N.I. 10), to which there are amendments not relevant to these Regulations.

(h) 1987 c.43.

(i) S.I. 1987/2049 (N.I. 12), to which there are amendments not relevant to these Regulations.

(j) S.I. 1989/728.

(k) OJ No. L 250, 19.9.1984, p. 17.

Savings for certain privileges

13. Save for paragraph 6 (power of an enforcement authority to require technical information), 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

14. A contract relating to a regulated appliance shall not be void or unenforceable by reason only of a contravention of any provision of these Regulations.

Service of documents

15.—(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 paragraph (a) 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(a) (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—

- (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.

(a) 1978 c.30.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement 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) and Commission Directive 94/2/EC as amended by Commission Directive 2003/66/EC (implementing Council Directive 92/75/EEC with regard to energy labelling of household electric refrigerators, freezers and their combinations).

The texts of Council Directive 92/75/EEC and Commission Directive 94/2/EC (as amended by Commission Directive 2003/66/EC) have been extended to the European Economic Area (“EEA”) by amendments to points 4 and 4a of Chapter IV of Annex II to the Agreement. The EEA states that are not member States are Norway, Liechtenstein and Iceland.

Household electric refrigerators, freezers and their combinations to which these Regulations apply are those specified in regulation 3, subject to the exclusions specified in regulation 4. In particular, they do not apply to appliances placed on the Community market before 1st July 2004.

Suppliers, as defined in regulation 2, must supply labels (which comply with Schedules 1 and 4) free of charge to dealers (regulation 7(3)) and supply information sheets (which comply with Schedules 2, 4 and 5) giving information about the energy consumption of those appliances (regulations 7 and 8). They are responsible for the accuracy of the information (regulation 9) and are required to establish, before the appliance is placed on the Community market, technical documentation to enable the accuracy of the information to be assessed and to retain that information for a period of 5 years after the last appliance of a particular model is manufactured (regulation 5). Suppliers are deemed to consent to the publication of the information given on a label or in an information sheet (regulation 10).

Dealers, as defined in regulation 2, must attach labels to displayed appliances displayed to end-users (regulation 11).

Where a person offers an appliance for sale by way of a communication (as defined in regulation 2(2)), that person is required by regulation 12 (information in respect of mail order and other distance selling) to provide certain information to the potential purchaser as set out in Schedule 3.

Regulation 13 prohibits the display of misleading information about the energy consumption of an appliance, save where labels that comply with the 1994 Regulations are permitted to be displayed. Regulation 14 provides a presumption of compliance in respect of labels and information sheets.

Regulation 15 and Schedule 6 contain provisions on offences, penalties and other matters of enforcement. Prosecutions in Scotland cannot be brought by the enforcement authority (regulation 15(2)) but are brought by the Procurator Fiscal.

Regulation 16 contains transitional provisions allowing labels, information sheets and communications that comply with the 1994 Regulations to be displayed or used in relation to appliances placed on the Community market on or before 30th December 2004.

Regulation 17(1) revokes the 1994 Regulations and the Energy Information and Energy Efficiency (Miscellaneous Amendments) Regulations 2001 to the extent that they amend the 1994 Regulations on the 31st December 2004, subject to paragraph (2). Regulation 17(2) preserves the provision of the 1994 Regulations in two situations: for appliances placed on the Community market before 1st July 2004; or where an appliance is placed on the Community market after 30th June 2004 but before 31st December 2004 and measurements were made using EN 153:1990 (BS EN 153:1990).

A full Regulatory Impact Assessment of the effect that these Regulations will have on the costs of business has been prepared and placed in the library of each House of Parliament, together with Transposition Notes setting out how the main elements of Council Directive 92/75/EEC and Commission Directive 94/2/EC (as amended) are transposed in these Regulations. Copies of these documents may be obtained from the Department for Environment Food and Rural Affairs,

Environment Business and Consumers Division, Zone 6/D10, Victoria Street, London SW1E 6DE.

Copies of the British Standards publications referred to in these Regulations may be obtained from any of the sales outlets operated by the British Standards Institution or by post from the British Standards Institution, 389 Chiswick High Road, London W4 4AJ.

£4.00

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