

**EXPLANATORY MEMORANDUM TO THE
THE ENERGY INFORMATION (HOUSEHOLD REFRIGERATORS AND
FREEZERS) REGULATIONS 2004**

2004 No. 1468

1. Description

The Energy Information (Household Refrigerators and Freezers) Regulations 2004 ('the Regulations') implement Commission Directive 2003/66/EC which amends Commission Directive 94/2/EC regarding the energy labelling of household electric refrigerators and freezers.

Commission Directive 94/2/EC introduced an energy labelling scheme for household electric refrigerators and freezers. The amending Directive extends the existing 7-point "A" to "G" energy efficiency rating scale for household electric refrigerators and freezers by splitting the "A" class into 3 to create two new classes "A+" and "A++".

The Regulations require: suppliers of household refrigerators and freezers to obtain energy information before placing appliances on the market; and for this information to be provided to potential customers.

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

There are no matters of special interest for the Department to bring to the attention of the Committee.

3. Legislative background

These Regulations implement Commission Directive 2003/66/EC which was adopted on 3rd July 2003 under delegated powers conferred through an energy labelling framework directive adopted by the Council of Ministers in 1992 (Council Directive 92/75/EEC on the indication by labelling and standard product information of the consumption of energy and other resources by household appliances).

Directive 2003/66/EC amends Commission Directive 94/2/EC regarding the energy labelling of household electric refrigerators and freezers. It extends the existing 7-point "A" to "G" energy efficiency rating scale to include 2 new classes ("A+" and "A++"). It extends to the European Economic Area.

Commission Directive 94/2/EC was implemented by the Energy Information (Refrigerators and Freezers) Regulations 1994 (S.I. 1994/3076) as amended by regulations 3, 4 and 10 of the Energy Information and Energy Efficiency (Miscellaneous Amendments) Regulations 2001 (S.I. 2001/3142). Those Regulations will continue to apply to appliances placed on the market prior to 1st July 2004.

Household refrigerators and freezers classed “D” and below (“F” and below in the case of chest freezers) have, since 3rd September 1999, been removed from the market as a result of Directive 96/57/EC of the European Parliament and of the Council on energy efficiency requirements for these appliances. Directive 96/57/EC was implemented by the Energy Efficiency (Refrigerators and Freezers) Regulations 1997 (S.I. 1997/1941).

The new Regulations apply to any appliances placed on the market on or after 1st July 2004. However, until 30th December 2004, suppliers may choose whether to comply with these Regulations or the 1994 ones. From 31st December 2004, suppliers must comply with these Regulations.

Enforcement will be the responsibility of local authority Trading Standards Officers in England, Wales and Scotland, and of the Department of Enterprise, Trade and Investment in Northern Ireland.

UK stakeholders (including representatives of suppliers, dealers and enforcement authorities; DTI; the devolved administrations in Scotland and Wales; and relevant Northern Ireland departments) were consulted at all key stages in the development of Directive 2003/66/EC prior to its adoption by the European Commission. Suppliers expressed strong support for the introduction of the new “A+” and “A++” classes.

The Regulations were the subject of a formal consultation exercise, with 12 weeks allowed for responses in accordance with current Cabinet Office requirements. Representatives of enforcement authorities expressed concerns about the significant additional burdens which, potentially, effective enforcement could, in their view, place on their members. However Defra is seeking to minimise the need for enforcement action through continuously monitoring and reviewing the effectiveness and operation of energy labelling measures. Specific actions which have been taken to date include spot-checks to monitor technical compliance levels and published reports.

No other points of note were raised as a result of this consultation exercise. The new “A+” and “A++” energy labelling classes which the Regulations introduce are not considered to be politically or legally important.

These Regulations are made using the powers contained in section 2(2) of the European Communities Act 1972. They were made on 27th May and come into force on 1st July 2004 and will continue in force unless annulled.

4. European Legislation

Transposition Notes are attached at Annexes A (covering the framework Directive) and B (covering the refrigerators and freezers Directive, as amended).

5. Extent–

The Regulations apply to the whole UK.

6. European Convention on Human Rights

In the view of the Secretary of State for Environment, Food and Rural Affairs, the Rt Honourable Margaret Beckett MP, the provisions of these Regulations are compatible with Convention rights, as defined in section 1 of the Human Rights Act 1998.

7. Policy background

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

The 7-point “A” to “G” rating scale introduced by Commission Directive 94/2/EC - in tandem with the removal of appliances classed “D” and below (“F” and below in the case of chest freezers) from the market as a result of Directive 96/57/EC of the European Parliament and of the Council - has encouraged suppliers to increase the efficiency of their models. Many models now fall into the existing “A” class. Increasingly therefore, consumers have not been able to distinguish between the “A” class appliances. The introduction of the “A+” and “A++” classes is intended to overcome this.

8. Impact

A Regulatory Impact Assessment is attached at Annex C.

9. Contact

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May 2004

TRANSPOSITION NOTE

Table showing how the main elements of European Council Directive 92/75/EEC of 22nd September 1992 on the indication by labelling and standard product information of the consumption of energy and other resources by household appliances have been implemented in the UK by the Energy Information (Household Refrigerators and Freezers) Regulations 2003, in relation to household refrigerators, freezers and their combinations.

Council Directive 92/75/EEC is a framework directive which delegates to the European Commissions the responsibility to prepare and adopt detailed application directives requiring energy efficiency labels and information for specific types of household appliance.

Provision	Purpose	Implementation
Article 1(3)	Clarifies non-application to rating plate or equivalent fixed for safety purposes	Regulation 3(2)
Article 1(4)	Provides definitions of various terms used	Regulation 2
Article 1(5)	Clarifies application – does not apply to 2 nd -hand appliances or to models where production ceased before the relevant daughter directive came into force	Regulation 4
Article 2(3) and (4)	Describes requirement for suppliers to compile technical documentation and make it available for inspection	Regulation 6
Article 3(1); Article 4(b)	Describes requirements for suppliers to supply labels to dealers	Regulation 7(3)-(5)
Article 3(2)	Describes requirements for suppliers to provide product fiches	Regulation 8
Article 3(3)	Requires suppliers to be responsible for the accuracy of information in the labels and fiches	Regulation 9
Article 3(4)	Deems suppliers to have consented to the publication of information in labels and fiches	Regulation 10
Article 7(a)	Ensures that suppliers and dealers fulfil their obligations	Regulations 7, 11 & 12
Article 7(b)	Prevents misleading information from being given	Regulation 13
Article 8(2)	Provides that labels and fiches are to be deemed to be compliant unless there is evidence to the contrary	Regulation 14

TRANSPOSITION NOTE

Table showing how the main elements of European Commission Directive 94/2/EC of 21st January 1994 as amended by Commission Directive 2003/66/EC of 3rd July 2003 implementing Council Directive 92/75/EEC with regard to energy labelling of household electric refrigerators, freezers and their combinations have been implemented in the UK by the Energy Information (Household Refrigerators and Freezers) Regulations 2003 [“the 2003 Regulations”].

The amending Directive provides for class A appliances to be further subdivided into new A+ and A++ classes, provides transitional arrangements and makes other minor amendments.

The obligations in relation to the information to be provided are dependent on the date that the appliance is placed on the market. The 1994 Regulations remain in force for appliances placed on the market prior to 1st July 2004. measurements obtained

Provision in Directive 94/2/EC	Amended by Directive 2003/66/EC	Purpose	Implementation
Article 1(1)	No	Clarifies application to product type	Regulation 3
Article 1(2)	Yes	Clarifies how required information is to be obtained and defines “harmonised standards”	Regulations 5 and 2 (definition)
Article 1(3)	Yes	Clarifies which provisions apply to noise information	Regulation 4(2)
Article 2(1)	Yes	Describes the content of technical documentation to be compiled by the supplier required by Article 2(3) and (4) of Directive 92/75/EEC	Regulation 5(2)
Article 2(2)	No	Refers to categories of appliance	Schedule 4
Article 2(3)	No	Refers to design and printing requirements and describes the positioning of labels on displayed appliances	Schedule 1 and Regulation 10
Article 2(4)	No	Refers to content and format of fiches	Schedule 2
Article 2(5)	Yes	Refers to content of communications	Schedule 3
Article 3	No	Ensures suppliers and dealers fulfil their obligations	Regulations 5-11 and Schedule 6

Article 4(1)	No	<i>Requires implementation by 31 December 1994 of the original provisions</i>	<i>Regulation 17 and see S.I. 1994/3076</i>
Annex I	Yes	Illustrates label design and printing requirements	Schedule 1
Annex II	Yes	Describes information to be contained in and layout of fiches	Schedule 2
Annex III	Yes	Describes information to be contained in communications in respect of mail order, internet and other distance sales	Schedule 3
Annex IV	No	Describes the categories of appliances	Schedule 4
Annex V	Yes	Describes how the energy efficiency class of an appliance should be determined	Schedule 5
Other provisions of Directive 2003/66/EC that do not amend specific Articles in Directive 94/2/EC			
Article 3	N/A	Amendments to 94/2/EC require implementation by 30 June 2004	Regulation 1
Article 2	N/A	Allows new labels and fiches to be distributed no later than 1 July 2004 and requires them to be used by 31 December 2004	Regulation 1

**REGULATORY IMPACT ASSESSMENT (FINAL)
THE ENERGY INFORMATION (HOUSEHOLD REFRIGERATORS AND
FREEZERS)
REGULATIONS 2004**

Purpose and intended effect of measure

(i) Issue and objective

1. These Regulations are needed to implement within the UK a new European Directive on the energy labelling of household refrigeration appliances (2003/66/EC), which revises the Directive adopted in 1994 (94/2/EC). The provisions of the 1994 Directive (implemented within the UK by The Energy Information (Refrigerators and Freezers) Regulations 1994 as amended by The Energy Information and Energy Efficiency (Miscellaneous Amendments) Regulations 2001) will, however, continue to apply in the case of appliances placed on the market before 1 July 2004, and also in the case of appliances placed on the market between 1 July and 30 December 2004 where BS EN 153:1990 (published by the British Standards Institution on 31 December 1990) has been used to obtain the measurements required.

2. These measures complement existing requirements for energy labels for other household product types (washing machines, electric tumble dryers, combined washer-dryers, dishwashers, lamps, air conditioners and electric ovens). They follow Government commitments to support improved consumer environmental information in general and mandatory energy labelling in particular.

3. The effect of the new Directive is to divide the existing energy efficiency rating category of A for household refrigeration appliances into 3 new categories (A, A+ and A++). These categories are shown on energy labels affixed to appliances displayed for sale, in information sheets provided by suppliers (usually as part of product brochures), and in mail order catalogues and other information provided by distance selling dealers.

4. Energy label information has increased the availability and visibility of consumer environmental publicity in the UK, both at the point of sale and in the form of product reviews, consumer advice and in promotional campaigns. Retail buyers are routinely using this information to specify the product performance which they require. This measure will further strengthen consumer awareness of the issues and is expected to have a similar beneficial effect in stimulating the market for energy efficient household refrigeration appliances and in facilitating competition amongst suppliers, dealers and traders in the UK and in the European Union on these aspects of household refrigeration appliance performance.

(ii) Risk assessment

5. If the UK failed to implement the Directive through these Regulations, the European Commission would launch infraction proceedings.

6. Whilst European Union suppliers might, even in the absence of regulations, provide the new labels to dealers in the UK, there would be no legal obligation on UK dealers to display them, resulting in patchy or unreliable consumer information in this area. Conversely, even if the Directive were not implemented in the UK, UK suppliers would still be obliged to provide the new labelling information in respect of their products exported for sale in other European Union Member States.

Options

7. At this stage, the UK is obliged to implement the Directive as drafted. The Directive is the result of an established development process which has included informal contact and formal consultations with the main interested UK bodies throughout.

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

Issues of equity or fairness

9. To the extent that all European Union suppliers and dealers will have to comply with the Regulations, there will be no effect on intra-European Union trade. There is expected to be no effect on trade with non-European Union countries.

Benefits

10. Between 2005 (the first full calendar year for which A+ and A++ labels will be in operation) and 2020, there are estimated to be slight savings in the amount of electricity consumed by household refrigeration appliances in the UK averaging about 13 gigawatt/hours annually as a direct result of the introduction of A+ and A++ labels (equal to around 0.1% of the total amount of electricity which, in aggregate, such appliances would have consumed on average each year over this period in the absence of A+ and A++ labels). These savings represent annual average reductions in carbon emissions

totalling about 5 tonnes and direct consumer benefits totalling around £300,000 a year on average.

Compliance costs for business, charities and voluntary organisations:

(i) Business sectors affected

11. Household refrigeration appliance suppliers, most of which in the UK are represented by the Association of Manufacturers of Domestic Electrical Appliances (AMDEA), will have to test examples of new products according to industry standards and ensure that labels containing energy efficiency information are supplied to the dealers as required. Dealers, most of which in the UK are represented by the British Retail Consortium (BRC) or the Mail Order Traders' Association (MOTA), will be required to affix labels to appliances or publish the relevant material in mail order catalogues. The Regulations do not confer any responsibilities on charities or voluntary organisations.

(ii) Compliance costs for a "typical" business

(iii) Total compliance costs

12. It is unlikely that suppliers will incur any significant additional costs as a direct result of these Regulations, over and above their existing costs for the printing and development of energy labels and information sheets.

13. Dealers will have no appreciable additional costs, their main duty being to check and fix labels to appliances on display. Nor should there be significant extra costs arising from the updating of mail order catalogues and other distance selling information.

Impact on small businesses

14. Enquiries which have been made of this sector have indicated that these Regulations are unlikely to raise any particular difficulties for small businesses which are suppliers or dealers of household refrigeration appliances.

Other costs

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

16. Costs to the Government, both of negotiating the Directive before its adoption and of preparing these implementing Regulations, are estimated at around £50,000.

Results of consultations

17. Most UK household refrigeration appliance suppliers have been kept informed at all stages during the development and subsequent implementation of Directive 2003/66/EC, via AMDEA who have expressed unqualified support for the introduction of A+ and A++ labels.

18. The Government has consulted various organisations both in the development of Directive 2003/66/EC and in the preparation of the Regulations and this RIA. Organisations consulted include AMDEA, BRC, MOTA, the Consumers' Association, the Electricity Association, the Local Authority Co-ordinators Of Regulatory Services (LACORS), the Trading Standards Institute (TSI), the Scottish Executive, the National Assembly for Wales and Northern Ireland departments.

Competition assessment

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

Summary and recommendations

Benefits to UK consumers	£300,000 a year on average over the period 2005 – 2020 (see paragraph 10).	
Annual costs	Suppliers	Dealers
Non recurring	£0	£0
Recurring	£0	£0

20. It is recommended that the UK should implement Directive 2003/66/EC to introduce A+ and A++ labels for household refrigeration appliances. The UK is obliged to comply with the Directive, the benefits of which, in terms of savings to both the consumer and the environment, should exceed any additional costs to business and consumers by a considerable margin.

Enforcement, sanctions, monitoring and review

21. These Regulations will be enforced by local trading standards authorities (LTSAs) in England, Wales and Scotland and by the Department of Enterprise, Trade and Investment (DETI) in Northern Ireland. LACORS and TSI, who as noted in paragraph 18 been consulted at all stages in the development and implementation of Directive 2003/66/EC, have expressed the view that, potentially, effective enforcement could place significant additional burdens on LTSAs. However, the Government is seeking to

minimise the need for enforcement action by LTSAs through continuously monitoring and reviewing the effectiveness and operation of energy labelling measures. This is being done via the Market Transformation Programme in consultation with suppliers, dealers, enforcement authorities and the European Union. Specific actions which have already been taken include spot-checks to monitor technical compliance levels and published reports.

Regulatory Quality Declaration

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

Signed by the responsible Minister: Whitty

Date: 27 May 2004

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