

STATUTORY INSTRUMENTS

2010 No. 2617

The Ecodesign for Energy-Related Products Regulations 2010

[^{F1}PART 8

Implementing measures

Textual Amendments

- F1** Pt. 8 (regs. 22-24) inserted (E.W.S.) (31.12.2020) by [The Ecodesign for Energy-Related Products and Energy Information \(Amendment\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/539), reg. 1(3), **Sch. 1 para. 12** (as amended by [S.I. 2020/1528](#), regs. 1(2), 4, 6(1)(2)(a)(3)(4)(a)); 2020 c. 1, **Sch. 5 para. 1(1)**

Power of the Secretary of State to make implementing measures

22.—(1) Subject to paragraphs (3) and (6), where the Secretary of State is satisfied that a product meets the criteria listed in paragraph (2), the Secretary of State must, by regulations, make an implementing measure in respect of that product.

(2) The criteria referred to in paragraph (1) are that—

- (a) the product, according to the most recently available figures and considering the quantities placed on the market or put into service, has a significant environmental impact within Great Britain; and
- (b) the product presents significant potential for improvement in terms of its environmental impact without entailing excessive costs, taking into account in particular—
 - (i) the absence of other relevant legislation or failure of market forces to address the issue properly; and
 - (ii) the existence of a wide disparity in the environmental performance of products available on the Great Britain market with equivalent functionality.

(3) The Secretary of State must not make an implementing measure in respect of a product that is the subject of self-regulation where such self-regulation—

- (a) meets at least the criteria in Annex 8 to the Directive, read subject to the modifications in regulation 23(1)(a) and (d); and
- (b) is expected to achieve the Secretary of State's ecodesign policy objectives more quickly or at lesser expense than an implementing measure.

(4) Before exercising the power in paragraph (1), the Secretary of State must—

- (a) consider the life cycle of the product and all its significant environmental aspects, including its energy efficiency, and the feasibility of their improvement;
- (b) consider any relevant legislation;
- (c) consider any self-regulation which meets the criteria in Annex 8 to the Directive read subject to the modifications in regulation 23(1)(a) and (d);

- (d) prepare a draft implementing measure;
 - (e) carry out an assessment of the draft implementing measure, which must consider its impact on the environment, consumers and manufacturers, including companies qualifying as small or medium-sized, in terms of competitiveness, innovation, market access and costs and benefits;
 - (f) consult on the draft implementing measure;
 - (g) prepare an explanatory memorandum of the draft implementing measure based on the assessment referred to in sub-paragraph (e); and
 - (h) set an implementation date, and any staged or transitional measures or periods, taking into account, in particular, possible impacts on companies qualifying as small or medium-sized, or on specific product groups manufactured primarily by companies qualifying as small or medium-sized.
- (5) For the purposes of paragraph (4)(a)—
- (a) the depth of analysis to be carried out by the Secretary of State on the environmental aspects and on the feasibility of their improvement must be proportionate to their significance; and
 - (b) the Secretary of State must take into account that the adoption of ecodesign requirements on the significant environmental aspects of a product must not be unduly delayed by uncertainties regarding the other aspects.
- (6) The Secretary of State must not make an implementing measure in respect of a product unless the Secretary of State is satisfied that the implementing measure—
- (a) has no significant negative impact on the functionality of the product, from the perspective of the user;
 - (b) has no adverse effects on health, safety and the environment;
 - (c) has no significant negative impact on consumers in particular as regards the affordability and the life cycle cost of the product;
 - (d) has no significant negative impact on industry's competitiveness;
 - (e) does not have the consequence of imposing proprietary technology on manufacturers; and
 - (f) does not impose an excessive administrative burden on manufacturers.
- (7) An implementing measure made under paragraph (1)—
- (a) must lay down ecodesign requirements in accordance with Annex 1 and Annex 2 to the Directive, read subject to the modifications in regulation 23(1)(a) to (c);
 - (b) must introduce specific ecodesign requirements for selected environmental aspects which have a significant environmental impact;
 - (c) must specify, in particular:
 - (i) the exact definition of the type of product covered;
 - (ii) the ecodesign requirements for the product covered, implementation dates, and any staged or transitional measures or periods and—
 - (aa) in the case of generic ecodesign requirements, the relevant phases and aspects selected from those mentioned in paragraph 1.1 and 1.2 of Annex 1, read subject to the modifications in regulation 23(1)(a) and (b), accompanied by examples of parameters selected from those mentioned in paragraph 1.3 of Annex 1, read subject to the modifications in regulation 23(1)(a) and (b), as guidance when evaluating improvements regarding identified environmental aspects; and

- (bb) in the case of specific ecodesign requirements, the level of the requirements that apply;
- (iii) the ecodesign parameters referred to in Part 1 of Annex 1, read subject to the modifications in regulation 23(1)(a) and (b), relating to which no ecodesign requirement is necessary;
- (iv) the installation requirements of the product where it has direct relevance to the product's environmental performance;
- (v) where available, the designated standards that apply and if no designated standards apply, the measurement standards and measurement methods to be used;
- (vi) requirements on information to be provided by manufacturers notably on the elements of the technical documentation which are needed to facilitate the checking of the compliance of the product with the implementing measure;
- (vii) the duration of the transitional period during which it is permitted to place on the market or put into service products which comply with legislation in force in Great Britain before the coming into force of the implementing measure;
- (viii) the date for the evaluation and possible revision of the implementing measure, taking into account the speed of technological progress;
- (d) must specify the procedures for assessing the product's conformity with the implementing measure, including—
 - (i) the choice open to the manufacturer between the internal design control procedure set out in Part 1 of Schedule 1A and the management system procedure set out in Part 2 of that Schedule;
 - (ii) where duly justified and proportionate to the risks involved, in addition to the choice in paragraph (i), one or more of the Modules described in Annex 2 to the Decision, as it had effect immediately before IP completion day, read subject to the modifications in regulation 23(2); and
 - (iii) where relevant, the criteria relating to approved bodies;
- (e) must contain requirements formulated so as to ensure that market surveillance authorities can verify the conformity of the product with the requirements of the implementing measure;
- (f) must specify whether verification can be achieved directly on the product or on the basis of the technical documentation;
- (g) may provide that no ecodesign requirement is necessary for certain specified ecodesign parameters referred to in Part 1 of Annex 1 to the Directive read subject to the modifications in regulation 23(1)(a) and (b);
- (h) where appropriate, must include provisions on the balancing of various environmental aspects;
- (i) may, subject to being proportionate and taking into account legitimate confidentiality of commercially sensitive information—
 - (i) require information to be supplied by the manufacturer that may influence the way the product is handled, used or recycled by parties other than the manufacturer; and
 - (ii) require a manufacturer or its authorised representative placing components and sub-assemblies on the market or putting them into service to provide the manufacturer of a product covered by an implementing measure with—
 - (aa) relevant information on the material composition of the components and sub-assemblies; and

- (bb) relevant information on the consumption of energy, materials and resources of the components and sub-assemblies; and
 - (j) must not apply to means of transport for persons or goods.
- (8) Where, for the purposes of paragraph (7)(d)(ii), the procedure for assessing a product's conformity with the implementing measure includes one or more Modules, the implementing measure may—
- (a) regarding technical documentation, require information additional to that which is already stipulated in the Modules;
 - (b) regarding the time for which the manufacturer and approved body are obliged to keep any kind of documentation, alter the period stipulated in the Modules;
 - (c) specify the manufacturer's choice as to whether the tests are carried out either by an accredited in-house body or under the responsibility of an approved body chosen by the manufacturer;
 - (d) where product verification is performed, specify the manufacturer's choice as to whether the examinations and tests to check the conformity of the products with the appropriate requirements will be carried out by examination and testing of every product, or by examination and testing of the products on a statistical basis;
 - (e) provide for the type examination certificate to have a period of validity;
 - (f) regarding the type examination certificate, specify relevant information relating to conformity assessment and in-service control to be included in it or its annexes;
 - (g) provide for different arrangements regarding the obligations the approved body has to report to the Secretary of State; and
 - (h) if the approved body carries out periodic audits, specify their frequency.
- (9) Where an implementing measure made under paragraph (1) requires information to be supplied by the manufacturer that may influence the way the product is handled, used or recycled by parties other than the manufacturer—
- (a) the implementing measure may require that information to include, as applicable—
 - (i) information from the designer relating to the manufacturing process;
 - (ii) information for consumers on the significant environmental characteristics and performance of a product, to allow consumers to compare these aspects of the products;
 - (iii) information for consumers on how to install, use and maintain the product in order to minimise its impact on the environment and to ensure optimal life expectancy, as well as on how to return the product at end-of-life, and, where appropriate, information on the period of availability of spare parts and the possibilities of upgrading products; and
 - (iv) information for treatment facilities concerning disassembly, recycling, or disposal at end-of-life; and
 - (b) the implementing measure must require that information—
 - (i) to be given on the product itself wherever possible; and
 - (ii) to take into account obligations under other relevant legislation, such as the Waste Electrical and Electronic Equipment Regulations 2013.

Modifications to Annexes 1, 2 and 8 of the Directive

23.—(1) The modifications referred to in paragraphs (3)(a), (4)(c), (7)(a), (c) and (g) of regulation 22 are as follows—

(a) Annexes 1, 2 and 8 to the Directive are to be read as if the definitions in regulation 2 of these Regulations apply and prevail over any conflicting definitions in the Directive.

(b) Annex 1 to the Directive is to be read as if—

(i) before Part 1—

(aa) in the first paragraph, the words from “The Commission must” to the end were omitted; and

(bb) in the second paragraph, for the words from “Article 15” to the end there were substituted “ regulation 22 of the Ecodesign for Energy-Related Products Regulations 2010, the Secretary of State must identify, as appropriate to the product covered by the implementing measure, the relevant ecodesign parameters from among those listed in Part 1 and the requirements for the manufacturer listed in Part 3 ”;

(ii) in Part 1—

(aa) in paragraph 1.2(e), for “Directive [2002/96/EC](#)” there were substituted “ the Waste Electrical and Electronic Equipment Regulations 2013 ”; and

(bb) for paragraph 1.3(d), there were substituted—

“(d) use of substances classified as hazardous to health or the environment according to Regulation [\(EC\) No 1272/2008](#) of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives [67/548/EEC](#) and [1999/45/EC](#), and amending Regulation [\(EC\) No 1907/2006](#), and taking into account legislation on the marketing and use of specific substances, such as—

(i) Regulation [\(EC\) No 1907/2006](#) of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive [1999/45/EC](#) and repealing Council Regulation [\(EEC\) No 793/93](#) and Commission Regulation [\(EC\) No 1488/94](#) as well as Council Directive [76/769/EEC](#) and Commission Directives [91/155/EEC](#), [93/67/EEC](#), [93/105/EC](#) and [2000/21/EC](#);

(ii) the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012; and”;

(cc) in paragraph 1.3(k), for the words from “Directive [97/68/EC](#)” to the end there were substituted “Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery, amending Regulations (EU) No 1024/2012 and (EU) No 167/2013, and amending and repealing Directive [97/68/EC](#)”;

(iii) Part 2 were omitted; and

- (iv) in Part 3, in the second subparagraph of paragraph 2, for “the Commission”, there were substituted “ the Secretary of State ”;
 - (c) Annex 2 to the Directive is to be read as if—
 - (i) before paragraph 1, in the second subparagraph—
 - (aa) for “Article 15, the Commission” there were substituted “ regulation 22 of the Ecodesign for Energy-Related Products Regulations 2010, the Secretary of State ”; and
 - (bb) the words from “in accordance” to “Article 19(2),” were omitted;
 - (ii) in the fifth subparagraph of paragraph 1, for “data provided from the European Central Bank” there were substituted “ relevant data ”; and
 - (iii) paragraph 2 were omitted;
 - (d) Annex 8 to the Directive is to be read as if—
 - (i) before paragraph 1, for the unnumbered paragraph, there were substituted—

“In addition to the basic legal requirement that self-regulatory initiatives must comply with all applicable domestic and international rules, the following non-exhaustive list of indicative criteria may be used to evaluate whether a self-regulatory initiative may be considered by the Secretary of State as an alternative to an implementing measure—”;
 - (ii) in paragraph 5, in the second subparagraph, “Member States,” were omitted;
 - (iii) in paragraph 6, in the first subparagraph—
 - (aa) for “Commission services”, there were substituted “ Secretary of State ”;
 - (bb) after “objectives”, there were inserted “ in the Great Britain context ”;
 - (iv) in paragraph 6, in the second subparagraph, the words from “It must” to the end were omitted; and
 - (v) in paragraph 8, for “the policy objectives of this Directive” there were substituted “ relevant ecodesign policy objectives ”.
- (2) The modifications referred to in regulation 22(7)(d)(ii) to Annex 2 of the Decision, as it had effect immediately before IP completion day, are that Annex 2 is to be read as if—
- (a) the definitions in regulation 2 of these Regulations apply and prevail over any conflicting definitions in the Decision;
 - (b) in each instance—
 - (i) for “EC design examination certificate”, there were substituted “ design examination certificate ”;
 - (ii) for “EC-type examination”, there were substituted “ type-examination ”;
 - (iii) for “harmonised standards” there were substituted “ designated standards ”;
 - (iv) for “its notifying authorities” and “the notifying authorities”, there were substituted “ the Secretary of State ”;
 - (v) references to a “notified body” were references to an “approved body”;
 - (vi) for “the national authorities”, “relevant authorities” and “relevant national authorities”, there were substituted “the Secretary of State”; and
 - (vii) the words “the references of which have been published in the Official Journal of the European Union”, were omitted; and
 - (c) in the description of “Module B”, in the third paragraph of point 8—

- (i) for “The Commission, the Member States”, there were substituted “ The Secretary of State ”; and
- (ii) for “the Commission and the Member States”, there were substituted “ the Secretary of State ”;
- (d) in the description of “Module H1”, in the third paragraph of point 4.5—
 - (i) for “The Commission, the Member States”, there were substituted “ The Secretary of State ”; and
 - (ii) for “the Commission and the Member States”, there were substituted “ the Secretary of State ”; and
- (e) in the heading to the Table, “Community” were omitted; and
- (f) in the Table—
 - (i) for “national authorities” there were substituted “ the Secretary of State ”; and
 - (ii) for “EC-design examination certificate” there were substituted “ design examination certificate ”.

Form of implementing measure

24.—(1) The power to make an implementing measure under regulation 22(1) is exercisable by statutory instrument, and—

- (a) in the case of an implementing measure which lays down ecodesign requirements identical to requirements adopted by the European Commission (if a draft of the instrument has not been laid before, and approved by a resolution of, each House of Parliament) the statutory instrument is subject to annulment in pursuance of a resolution of either House of Parliament; and
 - (b) in any other case, the statutory instrument must not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) An implementing measure under regulation 22(1) may—
- (a) amend the list of energy-related products and corresponding implementing measures in the table in paragraph 4 of Schedule 1;
 - (b) make different provision for different cases or circumstances;
 - (c) include supplementary, incidental and consequential provision; and
 - (d) make transitional provision and savings.]

Changes to legislation:

There are currently no known outstanding effects for the The Ecodesign for Energy-Related Products Regulations 2010, PART 8.