

**EXPLANATORY MEMORANDUM TO
THE ECODESIGN FOR ENERGY-RELATED PRODUCTS (AMENDMENT)
REGULATIONS 2011**

2011 No. 2677

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Ecodesign for Energy-Related Products (Amendment) Regulations 2011 ('the 2011 Regulations') ,are made under section 2(2) of the European Communities Act 1972.and amend the Ecodesign for Energy-Related Products Regulations 2010 ('the 2010 Regulations'). The main purpose of the amendments is to add two further products (household washing machine and household dishwashers) through amendments to the Annex of the 2010 Regulations which will then extend the Market Surveillance Authorities enforcement powers to these products. Other amendments add a requirement for the Secretary of State to review the regulations no later than 5 years beginning on the day the Regulations came into force; reduce the time for appeals to the First-tier Tribunal under Schedule 5 paragraph 27(2) from two months to 28 days and amend the Energy Information Regulations 2011 to require persons to make technical documentation available from the time when the person placed products on the market or puts them into service and for a period of at least 5 years after the last date of manufacture of that product.

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

3.1 None

4. Legislative Context

4.1 The Ecodesign Directive is the legal framework within which the European Commission brings forward implementing measures on specific products or product groups in order to improve their environmental performance. The Directive 2009/125/EC was adopted on 21 October 2009. It is a recast of the earlier Directive 2005/32/EC which established the original framework for the setting of eco-design requirements for energy-using products. The recast 2009 Directive widened the framework to cover products which do not necessarily use energy themselves but have a significant impact on energy use and can therefore contribute to saving energy. Ten implementing measures have been adopted under the framework so far

4.2 The 2010 Regulations implement Council Directive 2009/125/EC ("the Directive") on establishing a framework for the setting of eco-design requirements for energy-related products and gives control and enforcement powers to the Market Surveillance Authorities for the products where EU Regulations have been passed and listed in the Annex.

4.3 The 2011 Regulations add two further products (household washing machine and household dishwashers) to the Annex of the 2010 Regulations, for which EU Regulations have been passed and which are due to come into force in 2011. This has the effect of providing enforcement powers to the Market Surveillance Authority with respect to these products.

5. Territorial Extent and Application

5.1 This amendment extends to the UK.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Ecodesign Directive provides coherent European Union (EU)-wide rules for ecodesign and ensures that disparities among national regulations do not become obstacles to intra-EU trade. It defines conditions and criteria for setting requirements for environmentally relevant product characteristics (such as energy efficiency), through implementing measures. The Directive does not, in itself, create any additional legal obligations. This only happens when new implementing measures are adopted under this framework Directive.

7.2 The implementing measures under the Directive have so far taken the form of EU Regulations, although other forms are possible, including voluntary agreements. In most cases the EU Regulations put in place minimum energy efficiency standards for products. Products that do not meet these standards cannot then be sold in the EU single market. Our Impact Assessments estimate that the measures agreed so far will be saving around 7 MtCO₂ per annum by 2020 and will deliver around £850m pa net benefits to the UK alone, mostly in the form of savings on consumers' and businesses' energy bills.

7.3 Effective enforcement of implementing measures, by a designated Market Surveillance Authority is essential to ensure delivery of the desired economic and environmental benefits. It protects businesses that are compliant from unfair competition from non-compliant goods. It also helps to ensure that consumers benefit from the anticipated financial savings through lower energy bills, as well as protecting the environment.

8. Consultation outcome

8.1 No Consultation on this amendment is necessary. The Department for Environment, Food and Rural Affairs consult on the draft Regulations prior to these being adopted within the EU.

9. Guidance

9.1 Guidance is available on the website of the Department for Environment, Food and Rural Affairs to assist those placing on the market products that are covered by implementing measures under the Ecodesign Directive. This guidance will be updated as and when new implementing measures are introduced. It is available at: <http://efficient-products.defra.gov.uk/cms/eup/>

10. Impact

10.1 No specific impact assessment has been carried out in respect of these amendments but IA's are carried out prior to Regulations being passed at EU level for each of the product regulations concerned.

10.2 The amendments made by this statutory instrument are not expected to have direct additional burdens on businesses.

11. Regulating small business

11.1 The legislation applies to small business.

12. Monitoring & review

12.1 Each product Regulation has a review clause in it, normally 5 years after entry into force.

13. Contact

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