

EXPLANATORY MEMORANDUM TO
THE ENERGY INFORMATION (AMENDMENT) REGULATIONS
2020 No. 1195

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The purpose of this instrument is to amend the table at paragraph 1 of Schedule 1 of the Energy Information Regulations 2011 (the “2011 Regulations”). This table lists the EU energy labelling measures that currently have effect, and that can therefore be enforced by the UK market surveillance authorities (MSAs) under the 2011 Regulations. This instrument adds to the table new energy labelling measures coming into force from 1 November 2020 pursuant to Commission Delegated Regulations made under the EU Energy Labelling Framework Regulation (EU) 2017/1369.
- 2.2 Transitional provisions in most of the new Commission Delegated Regulations came into force on the 25 December 2019 to allow manufacturers to make the product information sheet available through the EU product database (EPREL), but the substantive provisions relating to the design of the labels and the information they provide come into force on 1 November 2020 or 1 March 2021.
- 2.3 This instrument will provide MSAs with the legal basis to enforce new energy labelling requirements for: household washer-dryers, household washing machines, household dishwashers, household refrigerating appliances and electronic displays.
- 2.4 This instrument will not be in force by the 1 November 2020, and so there will be an enforcement gap of a few weeks. However, as products take many months to go through product design, testing and distribution, and energy labels are prepared well in advance of sale, the risk that companies may take advantage of this temporary lack of enforcement is very low.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to the negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom.
- 4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 The Minister of State for Energy and Clean Growth, Kwasi Kwarteng, has made the following statement regarding Human Rights:

“In my view the provisions of The Energy Information (Amendment) Regulations 2020 are compatible with the Convention rights.”

6. Legislative Context

6.1 This instrument is being made to amend the table at paragraph 1 of Schedule 1 of the 2011 Regulations to include new legislation with substantive provisions coming into force from 1 November 2020 or 1 March 2021.

6.2 These amendments will be made for four product categories: household washing machines and washer-dryers, household dishwashers, household refrigerating appliances and electronic displays. This instrument relies on legislative powers conferred by the European Communities Act 1972 which were repealed by the European Union (Withdrawal) Act 2018 but continue to have effect until the end of the transition period under section 1A of the 2018 Act. It is necessary to provide UK MSAs with the legal authority to effectively carry out control and enforcement activities in respect of the energy labelling of the four product categories listed above during, and after, the transition period to ensure compliance and the non-proliferation of false or misleading energy labels.

6.3 As the UK is obliged by the Withdrawal Treaty to continue to comply with EU law during the transition period, we are required to update our domestic enforcement regime to this end.

7. Policy background

What is being done and why?

7.1 The EU Energy Labelling Framework (EU) 2017/1369 established a framework for the implementation of individual product-specific energy labelling measures (by way of Commission Delegated Regulations). The 2011 Regulations enable the MSAs to enforce these product-specific energy labelling measures. Energy labels provide consumers with relevant information to encourage the sale of more energy efficient products.

7.2 This instrument will amend the 2011 Regulations to include the following EU Commission Delegated Regulations in the table in paragraph 1, Schedule 1:

- Commission Delegated Regulation (EU) 2019/2013 for the energy labelling of electronic displays;
- Commission Delegated Regulation (EU) 2019/2014 for the energy labelling of household washing machines and household washer-dryers;
- Commission Delegated Regulation (EU) 2019/2016 for the energy labelling of household refrigerating appliances; and
- Commission Delegated Regulation (EU) 2019/2017 for the energy labelling of household dishwashers.

7.3 These require suppliers to provide new re-scaled energy labels alongside products placed on the UK market.

7.4 A lack of enforcement around these new energy labelling requirements could result in products being placed on the market with non-compliant energy labels.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the United Kingdom from the European Union because amendments to the 2011 Regulations rely on powers under section 2(2) of the European Communities Act 1972 (ECA). The ECA was repealed by the European Union (Withdrawal) Act 2018 but section 2(2) continues to have effect until the end of the transition period due to section 1A of the 2018 Act, inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020. As the ECA will cease to have effect in the UK from 1 January 2021, we will not be able to rely on these powers unless this instrument is made during the transition period.

8.2 Additionally, this instrument is necessary under the Withdrawal Treaty and the obligation for the UK to comply with EU law during the transition period.

9. Consolidation

9.1 None.

10. Consultation outcome

10.1 No consultation is necessary for this instrument. Stakeholders are aware and supportive of the new energy labelling Commission Delegated Regulations which this instrument seeks to ensure are domestically enforceable.

11. Guidance

11.1 No guidance is necessary for this instrument.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because this instrument relates to the maintenance of existing regulatory standards and has no impact beyond ensuring measures already in force can be enforced.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses as this instrument does not make amendments to any substantive requirements.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is to keep it under review while undertaking statutory reviews to wider energy labelling regulations.

14.2 This instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Kwasi Kwarteng has made the following statement: “This instrument relates to enforcement

activities only and does not impact significantly on businesses, who will already be seeking to comply with the requirements, and so a review clause was not deemed necessary. This instrument will be reviewed under wider Policy Implementation Reviews across eco-design and energy labelling legislation.”

15. Contact

- 15.1 Laura Gritt at the Department for Business, Energy and Industrial Strategy Telephone: 02072154541 or email: laura.gritt@beis.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Sam Balch, Deputy Director for Home Retrofit and Energy-using Products, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Minister of State for Energy and Clean Growth, Kwasi Kwarteng at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.