

EXPLANATORY MEMORANDUM TO
THE ECODESIGN FOR ENERGY-RELATED PRODUCTS AND ENERGY
INFORMATION (AMENDMENT) (NORTHERN IRELAND) (EU EXIT)
REGULATIONS 2021

2021 No. 924

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.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This statutory instrument makes amendments to the Ecodesign for Energy-Related Products Regulations 2010 (“the 2010 Regulations”) and the Energy Information Regulations 2011 (“the 2011 Regulations”) to ensure that the relevant Schedules refer to the correct product-specific measures that apply in Northern Ireland under the terms of the Protocol on Ireland/Northern Ireland to the Withdrawal Agreement (“Northern Ireland Protocol”), so that these can be enforced by the Market Surveillance Authorities (“MSAs”).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 Specific procedural and publication requirements are not applicable in this instance because the instrument is made under powers in the European Union (Withdrawal) Act 2018.

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 Not applicable.

4. Extent and Territorial Application.

- 4.1 The territorial extent of this instrument is Northern Ireland only.
- 4.2 The territorial application of this instrument is Northern Ireland only.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 By virtue of the operation of the Northern Ireland Protocol (Annex 2), Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of Ecodesign requirements for energy-related products and Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for Energy Labelling and repealing Directive 2010/30/EU continue to apply in Northern Ireland.
- 6.2 The 2010 Regulations transposed the provisions of the EU Ecodesign Directive (Directive 2009/125/EC establishing a framework for the setting of Ecodesign requirements for energy-related products) and created a related enforcement regime to ensure that UK MSAs have powers to enforce these obligations. The Office for Product Safety and Standards (OPSS) exercises the Secretary of State's function as MSA for Ecodesign for the whole of the UK.
- 6.3 The 2011 Regulations transposed Directive 2010/30/EU, then repealed by Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017, setting a framework for Energy Labelling and outlined the UK's enforcement regime to ensure that UK MSAs have the powers to enforce Energy Labelling obligations. In Northern Ireland, the Department for the Economy (NI) enforces Energy Labelling requirements placed on retailers. The Advertising Standards Authority (ASA) is responsible for ensuring that advertising of Energy Labelling across various forms of media is in accordance with advertising codes across the UK as a whole.
- 6.4 This instrument amends Schedule 1 to the 2010 Regulations and Schedule 1 to the 2011 Regulations in order to reflect various changes to EU Ecodesign implementing measures and Energy Labelling measures that are applicable in Northern Ireland. This will ensure the proper implementation of the Northern Ireland Protocol provisions in UK law. These amendments are made under section 8C of the European Union (Withdrawal) Act 2018.
- 6.5 In separate statutory instruments, the Government is making similar amendments to Schedule 1 to the 2010 and 2011 Regulations to ensure these accurately reflect the Ecodesign and Energy Labelling measures in force in Great Britain.

7. Policy background

What is being done and why?

- 7.1 Ecodesign and Energy Labelling policies aim to reduce the environmental impact of energy-related products by reducing their energy consumption and use of material resources. This reduces carbon emissions and saves businesses and consumers money on their energy bills.
- 7.2 The instrument will update Schedule 1 to the 2010 Regulations and Schedule 1 to the 2011 Regulations with respect to Northern Ireland. The updates will ensure that the list of Ecodesign and Energy Labelling measures accurately reflects the EU measures which currently apply in Northern Ireland under the terms of the Northern Ireland Protocol. This will enable the measures to be enforced by the Market Surveillance Authorities (as set out in paragraphs 6.2 and 6.3).

- 7.3 In addition, the SI will make the references to EU measures in the 2010 Regulations and 2011 Regulations ambulatory for Northern Ireland, which will ensure that these Schedules continue to reflect the most up to date EU Ecodesign or Energy Labelling measures in force without the need for further updates to the 2010 and 2011 Regulations.
- 7.4 The instrument will come into force, for most part, on 1st September 2021. This is the same date that new requirements for lighting products, which some of the amendments are in regard to, will come into force in the EU and Northern Ireland.

Explanations

What did any law do before the changes to be made by this instrument?

- 7.5 Schedule 1 to the 2010 Regulations and Schedule 1 to the 2011 Regulations list all of the Ecodesign and Energy Labelling measures, respectively, that must be complied with in Northern Ireland (as well as in Great Britain). This allows the measures to be enforced in Northern Ireland by the Market Surveillance Authorities.

Why is it being changed?

- 7.6 Under the Northern Ireland Protocol, EU measures for Ecodesign and Energy Labelling apply in Northern Ireland. For EU measures to be enforceable by the Market Surveillance Authorities in Northern Ireland, the 2010 and 2011 Regulations must be updated to include references to the most up-to-date EU regulations, when these are amended, replaced, or new measures are introduced over time.

What will it now do?

- 7.7 Schedule 1 to the 2010 Regulations and Schedule 1 to the 2011 Regulations, with respect to Northern Ireland, will be amended to include all EU Ecodesign and Energy Labelling regulations, which currently apply in Northern Ireland under the terms of the Northern Ireland Protocol.
- 7.8 In addition, the SI will make references to EU measures in the 2010 Regulations and 2011 Regulations ambulatory for Northern Ireland.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument is not being made to address a deficiency in retained EU law but relates to the withdrawal of the United Kingdom from the European Union because it is being made under section 8C in the European Union (Withdrawal) Act 2018.

9. Consolidation

- 9.1 This instrument is not being consolidated with any other legislation.

10. Consultation outcome

- 10.1 The Government ran a four-week consultation beginning in March 2021, which, among other related proposals, set out the Government's intention to make the amendments contained in this instrument for Northern Ireland. This consultation was conducted with manufacturers and trade associations related to energy-related products subject to Ecodesign and Energy Labelling measures, who will be impacted by the new legislation. An expedited consultation period was chosen because the

proposed amendments make no changes to underlying policy. Further, the urgency of other proposals contained in the consultation justified the expedited timeline and was supported by the affected stakeholders.

- 10.2 No feedback was received on the proposed amendments relating to this SI, as the amendments are not controversial and viewed as a routine update to the 2010 Regulations and the 2011 Regulations.

11. Guidance

- 11.1 No guidance has been produced for this instrument. This is because there is already strong understanding among stakeholders of how to operate within the amended legislation.

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 the changes brought about by this instrument are expected to have no significant direct cost to business, charities, voluntary bodies or the public sector.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses. No specific action is proposed to minimise regulatory burdens on small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is ongoing. This will ensure the Regulations are effective and working as intended.
- 14.2 As this instrument is made under the European Union (Withdrawal) Act 2018, no review clause is required. Furthermore, the 2010 and 2011 Regulations, both amended by this instrument, already include a review clause.

15. Contact

- 15.1 Georgina Robinson at the Department for Business, Energy and Industrial Strategy, Telephone: 020 7215 4128 or email: Georgina.Robinson@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 for Climate Change and Corporate Responsibility, Lord Callanan at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.