



STATUTORY INSTRUMENTS.

S.I. No. 671 of 2022

EUROPEAN UNION (ECODESIGN REQUIREMENTS FOR CERTAIN
ENERGY-RELATED PRODUCTS) (AMENDMENT) REGULATIONS 2022

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I, Leo Varadkar, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) (as amended by section 2 of the European Communities Act 2007 (No.18 of 2007)), and for the purpose of giving further effect to Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009¹, and to give effect to Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019², hereby make the following regulations:

1. (1) These Regulations may be cited as the European Union (Ecodesign Requirements for Certain Energy-related Products) (Amendment) Regulations 2022.

(2) These Regulations come into operation on 15th December 2022.

2. In these Regulations—

“Principal Regulations” means the European Union (Ecodesign Requirements for Certain Energy-related Products) (Amendment) Regulations 2013 (S.I. 454 of 2013).”

3. (1) Regulation 2(1) of the Principal Regulations is amended by inserting the following:

“Compliance Direction” means a direction under Regulation 12

“distributor” means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a product available on the market;

“economic operator” means the manufacturer, the authorised representative, the importer, the distributor, the fulfilment service provider or any other natural or legal person who is subject to obligations in relation to the manufacture of products, making them available on the market or putting them into service in accordance with the Ecodesign Directive and/or relevant EU Measures;

“fulfilment service provider” means any natural or legal person offering, in the course of commercial activity, at least two of the following services: warehousing, packaging, addressing and dispatching, without having ownership of the products involved, excluding postal services as defined in point 1 of Article 2 of Directive 97/67/EC of the European Parliament and of the Council³, parcel delivery services as defined in point 2 of Article 2 of

¹ OJ No. L285, 31.10.2009, p.10

² OJ No. L 169, 25.6.2019, p1

³ OJ No. L 015, 21/01/1998 P. 0014 - 0025

Regulation (EU) 2018/644 of the European Parliament and of the Council⁴, and any other postal services or freight transport services;

“information society service provider” means a provider of a service as defined in point (b) of Article 1(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council⁵;

“Market Surveillance Authority” has the meaning given to it by Regulation 3A;

“Market Surveillance Regulation” means Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019⁶ on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011

“online interface” means any software, including a website, part of a website or an application, that is operated by or on behalf of an economic operator, and which serves to give end users access to the economic operator's products;

“person in charge” means in relation to a place-

- (a) the person under whose direction and control the activities at that place are being conducted, or
- (b) the person who the authorised officer has reasonable grounds for believing is the person referred to in subparagraph (a);

“place” means any premises, land or means of transport that the economic operator in question uses for purposes related to the economic operator's trade, business craft or profession;

“recall” means any measure aimed at achieving the return of a product that has already been made available to the end user;

“record” includes any memorandum, book, report, statement, register, plan, chart, map, drawing, specification, diagram, pictorial or graphic work or other document, any photograph, film or recording (whether of sound or images or both), any form in which data (within the meaning of the Data Protection Acts 1988 to 2018) are held, any form (including machine-readable form) or thing in which information is held or stored manually, mechanically or electronically, and anything that is a part or copy, in any form, or any combination of the foregoing.

“SEAI” means the Sustainable Energy Authority of Ireland established under the Sustainable Energy Act, 2002;

“withdrawal” means any measure aimed at preventing a product in the supply chain from being made available on the market”

(2) Regulation 2 of the Principal Regulations is further amended by the insertion of the following subsection after subsection (2):

“The provisions of the Interpretation Act 2005 shall apply for the purposes of the interpretation of these Regulations, except insofar as a contrary intention appears in these Regulations.”

⁴ OJ No. L 112, 2.5.2018, p. 19–28

⁵ OJ No. L241, 17.9.2015, p. 1–15

⁶ OJ No. L 169, 25.6.2019, p1

4. The Principal Regulations are amended by the insertion before Regulation 4 of the following:

“Designation of the Market Surveillance Authority

3A(1) For the purposes of implementing these regulations SEAI, including its employees and agents, is designated the Market Surveillance Authority by the State pursuant to Article 10 of the Market Surveillance Regulation.

(2) All functions that were previously vested in the Minister as the designated Market Surveillance Authority in the State pursuant to Article 10 of the Market Surveillance Regulation are transferred to SEAI.”

5. The Principal Regulations are amended by the insertion before Regulation 4 of the following:

“3B Recovery of costs by SEAI

(1) SEAI shall be entitled to recover the totality of the costs of its activities arising from non-compliance with the Market Surveillance Regulation, EU Measures or these Regulations.

(2) The costs referred to in paragraph (1) of this Regulation may include the costs of carrying out testing, document inspection, the costs of taking measures in accordance with Article 28(1) and (2) of the Market Surveillance Regulation, the costs of storage and the costs of activities relating to listed products that are found to be non-compliant and are subject to corrective action prior to their release for free circulation or their placing on the market.

(3) SEAI may charge a fee (the ‘appropriate fee’) which shall be equal to the amount which it incurs or estimates it will incur in, or in connection with, carrying out or causing to be carried out the functions referred to in the Market Surveillance Regulations, EU Measures or these Regulations in respect of the listed products concerned.

(4) Where the costs incurred are greater than the appropriate fee, the difference between those costs and that fee shall be payable by the economic operator to the Market Surveillance Authority, and where those costs are less than the appropriate fee, the difference between those costs and the fee shall be repayable by the Market Surveillance Authority to the economic operator.”

6. The Principal Regulations are amended by the substitution of the following for Regulation 4

“Restriction on energy-related product

4(1) A manufacturer, an authorised representative, an importer or a fulfilment service provider shall not place a listed product on the market or put a listed product into service unless the listed product:

- (a) complies with the applicable EU measure, and
- (b) bears the CE marking

(2) A person who contravenes paragraph (1) shall be guilty of an offence.”

7. The Principal Regulations are amended by the insertion before Regulation 7 of the following:

“Obligations of economic operators and information society service providers

6A. (1) An economic operator in respect of a listed product, whether a manufacturer, authorised representative, importer, or fulfilment service provider, shall comply with the obligations set out in this regulation and in Articles 4 and 5 of the Market Surveillance Regulation.

(2) An economic operator shall comply with its obligation to cooperate with the market surveillance authority in the State as set out in Article 7(1) of the Market Surveillance Regulation.

(3) An information society service provider shall comply with its obligation to cooperate with the market surveillance authority in the State as set out in Article 7(2) of the Market Surveillance Regulation.

(4) A listed product offered for sale online or through means of distance sales shall be deemed to be made available on the market if the offer is targeted at end users in a Member State. An offer for sale shall be considered to be targeted at end users in a Member State if the relevant economic operator directs, by any means, its activities to that Member State.”

8. The Principal Regulations are amended by the substitution of the following for Regulation 7:

“Importer & Fulfilment service provider

7(1) Where the manufacturer is not established within the Community and in the absence of an authorised representative, the importer or a fulfilment service provider, as the case may be, shall:

- (a) ensure that the product placed on the market and/or put into service complies with Regulation 4; and
- (b) keep and make available the EC declaration of conformity and the technical documentation.

(2) A person who contravenes this Regulation commits an offence.”

9. The Principal Regulations are amended by the substitution of the following for Regulation 11:

“Warning Measure

11. (1) Where SEAI believes, on reasonable grounds, that a listed product does not comply with these Regulations or the applicable EU measure, SEAI may give a warning of non-compliance to the manufacturer, authorised representative, importer or fulfilment service provider of the listed product concerned.

(2) A warning of non-compliance under paragraph (1) shall notify the recipient of SEAI’s belief and shall require the manufacturer, authorised representative, importer or fulfilment service provider concerned—

- (a) to take measures necessary to bring the listed product into conformity with applicable EU measure or these Regulations within such period as may be specified in the warning,
 - (b) to keep records of the measures taken to address the non-compliance,
 - (c) where appropriate and proportionate, to carry out the measures in such order specified in the warning as SEAI considers necessary, and
 - (d) to comply with requirements of SEAI in relation to monitoring and inspection by an authorised officer, as SEAI considers appropriate.
- (3) A warning shall specify the grounds upon which it is made and shall inform the recipient that they may make representations to SEAI in relation to the warning not later than 14 days after the date of the warning.
- (4) A warning may, where it is reasonable and practicable to do so, confirm that costs are recoverable by SEAI in accordance with these Regulations.”

10. The Principal Regulations are amended by the substitution of the following for Regulation 12:

“Compliance Direction

12. (1) SEAI shall consider any representations in relation to a warning made under Regulation 11 by the recipient and shall, not more than 28 days after the expiry of the period under Regulation 11(3) within which representations may be made, give to the manufacturer, authorised representative, importer or fulfilment service provider concerned of the listed product—
- (a) a compliance direction to comply with the warning, with or without variation, or
 - (b) a notice withdrawing the warning.
- (2) SEAI may at any time, where necessary, amend or withdraw a compliance direction.
- (3) A compliance direction, and any amended compliance direction, shall—
- (a) specify the grounds upon which the direction, or amended direction, as the case may be, is made,
 - (b) specify, with or without variation, the requirements in accordance with Regulation 11(2) that were issued to the recipient in the warning under Regulation 11(1) concerned, with which the recipient is directed to comply,
 - (c) state when it is to come into effect, and
 - (d) advise the recipient of their right to appeal or to apply to suspend its operation.
- (4) A compliance direction may, contain a provision stating that costs are recoverable in accordance with Regulation 3B and, where it is reasonable and practicable to do so, estimate such costs.”

11. The Principal Regulations are amended by the substitution of the following for Regulation 13:

"Withdrawal from market

13. (1) Where the recipient of a compliance direction does not comply with the direction once it has taken effect in accordance with Regulation 14 the SEAI may give a further direction to the recipient—

- (a) not to place the listed product on the market or put it into service,
- (b) where appropriate, to withdraw the listed product from the market or service, and/or
- (c) recall the product.

(2) Where SEAI believes, on reasonable grounds, based on an appropriate risk assessment, taking account of the nature of the hazard and the likelihood of its occurrence, that the immediate withdrawal from the market or recall, or both of a listed product is required because of the product presenting a serious risk SEAI may, notwithstanding Regulations 11 and 12 and paragraph (1) give a direction to the manufacturer, authorised representative, importer or fulfilment service provider of the listed product where appropriate to—

- (a) immediately, or within such time (not being less than 14 days from the service of the direction) as is otherwise specified withdraw the listed product from the market or service, or
- (b) immediately, or within such time (not being less than 14 days from the service of the direction) as is otherwise specified recall the listed product, or both.

12. The Principal Regulations are amended by the substitution of the following for Regulation 14:

"Effect of direction

14. (1) A direction under Regulation 12 or 13 takes effect—

- (a) where the direction so provides, immediately the direction is served, in accordance with Regulation 17, on the person named in the direction
- (b) in any other case—
 - (i) where no appeal is taken against the direction, on the expiration of the period during which such an appeal may be taken or the day specified in the direction as the day on which it is to come into effect, whichever is the later, or
 - (ii) in case such an appeal is taken, on the day on which the direction is confirmed on appeal, or the appeal is withdrawn or the day specified in the direction is the day on which it is to come into effect, whichever is the later.

(2) A direction under Regulation 12 or 13 remains in force—

- (a) unless it is discharged or varied on appeal,
- (b) until SEAI withdraws it, or

(c) until SEAI issues a notice to the recipient stating that the direction has been complied with.”

13. The Principal Regulations are amended by the substitution of the following for Regulation 15:

“Appeal from direction

15. (1) A person on whom a direction pursuant to Regulation 12 or 13 has been served may, within 14 days beginning on the day on which the direction is served, appeal against the direction to a judge of the District Court in the District Court district in which the direction was served and in determining the appeal the judge may if he or she is satisfied that in the circumstances of the case it is reasonable to do so, in the interests of justice and having regard to the objectives of the Directive or the relevant applicable EU measure—

- (a) confirm the direction, with or without modification, or
- (b) cancel the direction.

(2) The bringing of an appeal against a direction which is to take effect in accordance with Regulation 14(1) does not have the effect of suspending the operation of the direction but the appellant may apply to the District Court to have the operation of the direction suspended until the appeal is disposed of and the judge, if he or she is satisfied that there are reasonable grounds for so doing in the interests of justice and having regard to the objectives of the Directive or the relevant EU measure may direct that the operation of the direction is suspended until the appeal is disposed of.

(3) Where, on the hearing of an appeal under this Regulation a direction is confirmed, notwithstanding paragraph (2) the judge of the District Court by whom the appeal is heard may, on the application of the appellant, suspend the operation of the direction for such period as in the circumstances of the case in the interest of justice and having regard to the objectives of the Directive or the relevant EU measure, the judge considers appropriate.

(4) A person who appeals against a direction or who applies to have the operation of the direction suspended, shall at the same time notify SEAI of the appeal or application and SEAI shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal or the application.

(5) Where a decision is made pursuant to paragraph (1), a party to those proceedings may, within 14 days beginning on the day on which the decision was made, appeal to the Circuit Court in the circuit in which the direction was served and in determining the appeal, the court may, if it considers it appropriate to do so, confirm the decision of the District Court, vary it or allow the appeal.

(6) A decision under paragraph (5) shall be final, save that, by leave of the High Court, an appeal from the decision shall lie to the High Court on a specified point of law.

(7) A Court, in making an order under this Regulation may make such other provisions or orders as the court considers appropriate in relation to matters such as the payment of costs, including costs incurred by SEAI in relation to

the investigation and detection of a failure or refusal to comply with a direction or part of a direction in the time specified in the direction.

14. The Principal Regulations are amended by the substitution of the following for Regulation 16:

“Application to appropriate court for failure to comply with direction

16. (1) Where a manufacturer, authorised representative, importer or fulfilment service provider does not comply with a direction under Regulation 12 or 13, SEAI may apply to the appropriate court for an order directing compliance.

(2) Where the appropriate court, on application to it under paragraph (1), is satisfied that the manufacturer, authorised representative, importer or fulfilment service provider has failed or refused to comply with or disobeyed or continues to disobey the direction or part of it, within the time specified within the direction, the court may—

- (a) by order require the person to comply with the direction or part of it,
- (b) make an order for the forfeiture to SEAI of the listed product or products to which the direction applies, or
- (c) by order make such other provision, including provision in relation to the payment of costs, as the court considers appropriate.

(3) An application for an order under this Regulation shall be by motion, and the court when considering the matter may make such interim or interlocutory orders as it considers appropriate.

(4) The court, in making an order under this Regulation—

- (a) shall, unless satisfied that there are special and substantial reasons for not so doing, order the person concerned to pay to SEAI the costs and expenses measured by the court, and
- (b) may make such other provision as the court considers appropriate in relation to matters such as payment of costs, including costs incurred by SEAI in relation to the investigation of and detection of a failure or refusal to comply with a direction or part of a direction, including costs incurred in relation to the seizure, destruction or disposal of a listed product.

(5) Where an order for forfeiture is made under paragraph (2)(b), unless otherwise ordered by the court, any listed product the subject of the order shall be seized on behalf of SEAI by an authorised officer and shall be destroyed or disposed of, and, if the court gives a direction in relation to the destruction or disposal of the listed product, in accordance with the direction.

15. The Principal Regulations are amended by the substitution of the following for Regulation 17:

“Service of direction

17. (1) A direction or notice given under these Regulations shall—

- (a) be in writing, and
 - (b) be served on the manufacturer or, as the case may be, the authorised representative or the importer of the listed product.
- (2) A direction or notice shall be addressed to the manufacturer or, as the case may be, the authorised representative, the importer or the fulfilment service provider of the listed product and may be served on that person in one of the following ways:
- (a) by delivering it to the person;
 - (b) by leaving it at the address at which the person ordinarily resides or, in a case where an address for service has been furnished, at that address;
 - (c) by sending it by post in a prepaid registered letter to the address at which that person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
 - (d) in a case where SEAI considers that the direction should be issued immediately, by sending it by means of electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which that person ordinarily resides or, in a case in which an address for service has been furnished, at that address provided that the sender's—
 - (i) facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail, or
 - (ii) facsimile machine generates a message confirming successful transmission of the total number of pages of the direction,
- and the direction or notice is also given in one of the other ways mentioned in any of the preceding subparagraphs.
- (3) For the purposes of paragraph (2), a company registered under the Companies Acts is deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body is deemed to be ordinarily resident at its principal office or place of business.
- (4) In any proceedings a document purporting to be a direction, or a warning of non-compliance given under these Regulations and to be signed by or on behalf of SEAI shall be received in evidence and deemed to be such direction, without further proof, until the contrary is shown.
- (5) In this regulation “direction” means a direction under Regulation 12 or 13 and includes a warning under Regulation 11, and “notice” means a notice under Regulation 12(1)(b) or 14(2)(c).

16. The Principal Regulations are amended by the substitution of the following for Regulation 18:

Appointment of authorised officers

18(1) SEAI may appoint such and so many persons to be authorised officers for the purposes of all or any of these Regulations or any of the EU Measures and such appointment may be specified for a fixed period.

(2) An authorised officer appointed under these Regulations shall be furnished with a warrant of appointment and shall when exercising any power conferred on him or her by this Regulation, if requested by a person affected, produce that warrant of appointment or a copy of it to that person.

(3) An appointment under this Regulation as an authorised officer shall cease –

- (a) if SEAI revokes the appointment, or
- (b) if the appointment is for a fixed period on the expiry of that period.

(4) A person appointed by the Minister as an authorised officer under these Regulations shall continue as an authorised officer as if appointed by SEAI under these Regulations.

17. The Principal Regulations are amended by the substitution of the following for Regulation 19:

"Powers of authorised officers"

19. (1) An authorised officer shall, for the purposes of the enforcement of the Directive, an EU Measure, the Market Surveillance Regulation or these Regulations have the power to do one or more of the following:

- (a) require economic operators to provide relevant documents, technical specifications, data or information on compliance and technical aspects of the listed product, including access to embedded software in so far as such access is necessary for the purpose of assessing the product's compliance with the Directive, an EU measure or these Regulations, in any form or format and irrespective of the medium of storage or the place where such documents, technical specifications, data or information are stored, and to take or obtain copies thereof;
- (b) require economic operators to provide relevant information on the supply chain, on the details of the distribution network, on quantities of listed products on the market and on other product models that have the same technical characteristics as the listed product in question, where relevant for compliance with the applicable requirements under the Directive, an EU measure or these Regulations;
- (c) require economic operators to provide relevant information required for the purpose of ascertaining the ownership of websites, where the information in question is related to the subject matter of the investigation.
- (d) carry out unannounced on-site inspections and physical checks of listed products;
- (e) subject to paragraphs (3) and (5), enter at any time, without warrant, any place, in order to identify potential non-compliance and/or to remove and retain samples for testing.

- (f) require that a place and its contents remain undisturbed for as long as is reasonably necessary for the purposes of an inquiry, search, examination, investigation or inspection under the Market Surveillance Regulation or these Regulations;
- (g) require any person in charge of a place to:
 - (i) produce to the authorised officer any listed product in the possession or under the control of the person,
 - (ii) produce to the authorised officer any books, documents or records, and where such books, documents or records are kept in non-legible form, reproduce them in legible form and
 - (iii) give to the authorised officer such information as the authorised officer may reasonably require in relation to any entries in the said books, documents and records referred to in (ii).
- (h) require a person in charge of, employed at or other relevant person at a place by whom or on whose behalf a computer is or has been used to produce or store records or require any other person having control of, otherwise concerned with, the operation of the computer to afford the authorised officer access to the records on that computer and all reasonable assistance as the authorised officer may require in accessing such records for the purposes of any inquiry, search, examination, investigation or inspection under the Directive, an EU Measure, the Market Surveillance Regulation or these Regulations;
- (i) require that any books, documents or records at a place be maintained for such a period as may be reasonable for the purposes of any inquiry, search, examination, investigation or inspection under the Directive, an EU Measure, the Market Surveillance Regulation or these Regulations
- (j) remove from a place and detain any books, documents or records (including any information stored in a non-legible form) and any copies taken of such books, documents or records for such period as the authorised officer reasonably considers necessary for further examination or until the conclusion of any legal proceedings to which they relate;
- (k) require the person in charge of a place to give the authorised officer such information as the authorised officer may reasonably require for the purposes of any inquiry, search, examination, investigation or inspection under the Directive, an EU Measure, the Market Surveillance Regulation or these Regulations;
- (l) require the person in charge of, employed at or other relevant person at a place to give the authorised officer such assistance and facilities within the person's power or control as are necessary to enable the authorised officer to exercise his or her powers under these Regulations;
- (m) examine any person whom the authorised officer reasonably believes may be able to give to the authorised officer information relevant to any inquiry, search, examination, investigation or inspection under the Directive, an EU Measure, the Market Surveillance Regulation, or these Regulations and require the person to answer such questions as the

authorised officer may ask relevant to the inquiry, search, examination, investigation or inspection.

- (n) require that any procedure be followed for the purposes of any inquiry, search, examination, investigation or inspection under the Directive, an EU Measure, the Market Surveillance Regulation or these Regulations.
- (o) take any measurements or photographs or make any tape, electrical or other recordings that the authorised officer considers necessary for the purposes of any inquiry, search, examination, investigation or inspection under the Directive, an EU Measure, the Market Surveillance Regulation or these Regulations.
- (p) where appropriate install, use and maintain at a place monitoring instruments, systems and seals for the purposes of the Market Surveillance Regulation or these Regulations.
- (q) start investigations on their own initiative in order to identify non-compliances and bring them to an end;
- (r) require economic operators to take appropriate action to bring an instance of non-compliance to an end or to eliminate the risk;
- (s) take appropriate measures where an economic operator fails to take appropriate corrective action or where the non-compliance or the risk persists, including the power to prohibit or restrict the making available of a product on the market or to order that the product is withdrawn or recalled;
- (t) to initiate prosecutions in accordance with these Regulations.
- (u) Acquire listed product samples, including under a cover identity, to inspect those samples or to reverse-engineer them, in order to identify non-compliance and to obtain evidence, and/or remove and retain for such period as is necessary any listed product or part of it found at that place for all or any of the following purposes-
 - (i) to examine or arrange for the examination, testing or analysis of the listed product regulated by an EU measure or part thereof
 - (ii) to ensure that it is not tampered with before the examination of it under clause (i) is completed, or
 - (iii) to ensure that it is available for use as evidence in any proceedings;
- (v) where no other effective means are available to eliminate a serious risk:
 - (i) to require the removal of content referring to the related listed products from an online interface or to require the explicit display of a warning to end users when they access an online interface; or
 - (ii) where a request according to point (i) has not been complied with, to require information society service providers to restrict access to the online interface, including by requesting a relevant third party to implement such measures.

(2) An authorised officer may use any information, document, finding, statement, or any intelligence as evidence for the purpose of their investigations, irrespective of the format in which and medium on which they are stored.

(3) An authorised officer shall not enter a dwelling other than—

- (a) with the consent of the occupier,
- (b) in accordance with a warrant of the District Court issued under paragraph (5) authorising such entry, or

(4) Where an authorised officer in the exercise of their powers under this Regulation is prevented from entering any place, an application may be made to the District Court for a warrant under paragraph (5) authorising such entry.

(5) Without prejudice to the powers conferred on an authorised officer by or under any other provision of this Regulation, if a judge of the District Court is satisfied by the sworn information of an authorised officer that there are reasonable grounds for believing that—

- (a) there are any listed products regulated by an EU measure at any place or any records (including documents stored in a non-legible form) or information, relating to a place, that the authorised officer requires to inspect for the purposes of the Directive, an EU Measure, the Market Surveillance Regulation or these Regulations, held at any place, or
- (b) there is, or such an inspection is likely to disclose, evidence of a contravention of the Directive, an EU Measure, the Market Surveillance Regulations or these Regulations,

the judge may issue a warrant authorising an authorised officer, accompanied by such other authorised officers as may be appropriate or members of the Garda Síochána as may be necessary, at any time or times, within one month from the date of issue of the warrant, on production of the warrant if requested, to enter the place, if necessary by the use of reasonable force, and perform the functions conferred on an authorised officer by these Regulations.

(6) Where an authorised officer has reasonable grounds for believing that it is necessary in the performance of their functions under these Regulations, they may be accompanied by a member of the Garda Síochána when performing those functions.

(7) Where an authorised officer, upon reasonable grounds, believes that a person has committed an offence under these Regulations they may require that person to provide him or her with their name and the address at which they ordinarily reside.

(8) a person shall not –

- (a) interfere with an authorised officer, a member of the Garda Síochána or other person in the exercise of the powers conferred on him or her under this Regulation or a warrant under paragraph (5),
- (b) without reasonable excuse fail or refuse to comply with a request or requirement of, or to answer a question asked by an authorised officer pursuant to a power conferred by the Directive, an EU Measure, the

Market Surveillance Regulation or these Regulations, the EU Regulation or the Market Surveillance Regulation,

- (c) Make a statement or give information to an authorised officer that the person knows to be false or misleading in a material respect.”
- (9) A person who contravenes or fails to comply with Regulation 19(8) is guilty of an offence
- (10) A statement or admission made by a person pursuant to a requirement under paragraph (1)(k) or (m) shall not be admissible in any proceedings brought against that person for any offence other than an offence under paragraph (9) relating to a breach of or failure to comply with, any obligation in the said paragraph (1)(k) or (m).

18. The Principal Regulations are amended by the substitution of the following for Regulation 20:

“Penalties

20 (1) A person guilty of an offence under these Regulations (other than an offence under Regulation 19(9)) is liable—

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €250,000;

(2) A person guilty of an offence under Regulation 19(9) is liable on summary conviction to a Class A fine.”

19. The Principal Regulations are amended by the substitution of the following for Regulation 22

“Prosecution of Offences

22.(1) Summary proceedings for an offence under these Regulations may be brought and prosecuted summarily by SEAI.

(2) Where summary proceedings for an offence under these Regulations have been instituted by the Minister and these proceedings have not concluded then said proceedings may be prosecuted summarily by SEAI.

(3) If a person is convicted of an offence under these Regulations the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the prosecutor the costs and expenses measured by the court, reasonably incurred by the prosecutor in relation to the investigation, detection and prosecution of the offence, including costs incurred in the taking of samples, the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of employees, consultants and advisers.”



GIVEN under my Official Seal,
15 December, 2022.

LEO VARADKAR,
Minister for Enterprise, Trade and Employment..

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These regulations are for the purpose of transferring the Market Surveillance Authority for the ecodesign requirements for certain energy-related products, from the Minister for the Environment, Climate and Communications to the Sustainable Energy Authority of Ireland.

These regulations also give full effect in Irish law to Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and give further effect in Irish law, as necessary to Directive 2009/125/EC of the European Parliament and of the Council of the 21st October 2009 establishing a framework for the setting of eco-design requirements for energy-related products by amending the European Union (Eco-Design Requirements for certain energy-related products (amendment) Regulations 2013 S.I. No. 454 of 2013).

Regulation (EU) 2019/1020 confers on national market surveillance authorities strengthened powers to carry out effective market surveillance to ensure that relevant products are compliant with certain EU harmonisation legislation, including Directive 2009/125/EC, with a view to ensuring the free movement of compliant products within the EU.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach 6
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
CILL MHAIGHNEANN,
BAILE ÁTHA CLIATH 8,
D08 XAO6

Tel: 046 942 3100
r-phost: publications@opw.ie

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