



STATUTORY INSTRUMENTS.

S.I. No. 669 of 2022



EUROPEAN UNION (ENERGY LABELLING) REGULATIONS 2022

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S.I. No. 669 of 2022

EUROPEAN UNION (ENERGY LABELLING) REGULATIONS 2022

I, Eamon Ryan, Minister for the Environment, Climate and Communications, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving effect to Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017¹ and of Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019², hereby make the following regulations:

Part 1

PRELIMINARY AND GENERAL

Citation

1. These Regulations may be cited as the European Union (Energy Labelling) Regulations 2022.

Interpretation

2. (1) In these Regulations—

“Appropriate court” means

- (a) where the product concerned is at a particular location, the judge of the Circuit Court within whose circuit the product is located, or
- (b) in any case or where the product concerned is generally located throughout the State, the High Court;

“Compliance Direction” means a direction under Regulation 7;

“dealer” means a retailer or other natural or legal person who offers for sale, hire, or hire purchase, or displays products to customers or installers in the course of a commercial activity, whether or not in return for payment;

“Delegated Act” means a directly applicable Delegated Act of the Commission of the European Union pursuant to Article 16 of the Energy Labelling Framework Regulation as well as any directly applicable Delegated Act of the Commission of the European Union pursuant to Directive 2010/30/EU which remains in force;

“economic operator” means the manufacturer, the authorised representative, the importer, the distributor, the fulfilment service provider or any other natural

¹ OJ No. L198, 28.7.2017, p. 1

² OJ No L169, 25.6.2019, p. 1

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 Energy Labelling Framework Regulation and/or relevant Delegated Acts;

“Energy Labelling Framework Regulation” means 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/EU³;

“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 Council⁴, parcel delivery services as defined in point 2 of Article 2 of Regulation (EU) 2018/644 of the European Parliament and of the Council⁵, 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 Council⁶;

“Market Surveillance Authority” shall be interpreted in accordance with Regulation 3;

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

“Minister” means Minister for the Environment, Climate and Communications;

“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 whom 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

³ OJ No. L153, 18.6.2010, p. 1

⁴ OJ No. L15, 21.1.1998, p. 14

⁵ OJ No. L112, 2.5.2018, p. 19

⁶ OJ NO. L241, 17.9.2015, p. 1

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, of any of, or any combination of, the foregoing.

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

“supplier” means a manufacturer established in the Union, the authorised representative of a manufacturer who is not established in the Union, or an importer, who places a product on the Union market;

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

(2) A word or expression that is used in these Regulations and is also used in the Energy labelling Framework Regulation, the Market Surveillance Regulation, or a Delegated Act has, unless the context otherwise requires, the same meaning as it has in the Energy labelling Framework Regulation, Market Surveillance Regulation, or the Delegated Acts concerned.

(3) 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.

Designation of the Market Surveillance Authority

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

(2) All functions that, immediately before the date on which these regulations came into operation, were vested in the Minister as the designated Market Surveillance Authority by the State pursuant to Article 10 of the Market Surveillance Regulation are transferred to SEAI.

Part 2

OBLIGATIONS OF SUPPLIERS AND DEALERS

Offence — failure to comply with EU Regulation

4. (1) A supplier who contravenes Article 3, 4, or 6 of the Energy Labelling Framework Regulation shall be guilty of an offence; and

(2) A dealer who contravene Articles 5 or 6 of the Energy Labelling Framework Regulation shall be guilty of an offence.

Recovery of costs by SEAI

5. (1) SEAI shall be entitled to recover the totality of the costs of its activities arising from instances of non-compliance with the Energy Labelling Framework Regulation including Delegated Acts thereunder and 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 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 these Regulations, the Energy Labelling Framework Regulation, the Market Surveillance Regulation or Delegated Acts, in respect of the application concerned.

(4) Where the costs incurred are greater than the appropriate fee, the differences between those costs and that fee shall be payable by the supplier or dealer to SEAI, and where those costs are less than the appropriate fee, the difference between those costs and the fee shall be repayable by SEAI to the supplier or dealer, as the case may be.

Warning Measure

6. (1) Where SEAI believes, on reasonable grounds, that there has been a non-compliance by a supplier or a dealer with any requirement of the Energy Labelling Framework Regulation, Delegated Acts thereunder or these Regulations, SEAI may give a warning of non-compliance to the supplier or dealer concerned.

(2) A warning of non-compliance under paragraph (1) shall notify the recipient of SEAI’s belief and shall require the supplier or dealer concerned—

- (a) to take measures necessary to bring the product into conformity with the requirement concerned 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 specific 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 in accordance with Regulation 5 of these Regulations.

Compliance Direction

7. (1) SEAI shall consider any representations made by the recipient in relation to a warning given under Regulation 6 and shall, not more than 28 days after the expiry of the period under Regulation 6(3) within which representations may be made, give to the supplier or dealer concerned of the 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 6(2) that were issued to the recipient in the warning under Regulation 6(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 5 and may, where it is reasonable and practicable to do so, estimate such costs.

Withdrawal from market

8. (1) Where the recipient of a compliance direction does not comply with the direction once it has taken effect in accordance with Regulation 9, SEAI may give a further direction to the recipient:

- (a) not to place the product on the market or in service,
- (b) where appropriate, to withdraw the 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 product regulated by the Energy Labelling Framework Regulation or a Delegated Act is required because of the product presenting a serious risk, SEAI may, notwithstanding Regulations 6 and 7 and paragraph (1) give a direction to the supplier or dealer of the product where appropriate, to

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

Effect of direction

9. (1) A direction under Regulation 7 or 8 takes effect—

- (a) where the direction so provides, immediately the direction is served, in accordance with Regulation 12, on the person named in the direction, and
- (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 as the day on which it is to come into effect, whichever is the later.

(2) A direction under Regulation 7 or 8 remains in force—

- (a) unless and until 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.

Appeal from direction

10. (1) A person on whom a direction pursuant to Regulation 7 or 8 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 notice was served, and in determining the appeal the judge may, if 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 Energy Labelling Framework Regulation or relevant Delegated Act —

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

(2) The bringing of an appeal against a direction which is to take effect in accordance with Regulation 9(1)(a) 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 satisfied that there are reasonable grounds for so doing in the interests of justice and having regard to the objectives of the Energy Labelling Framework Regulation or relevant Delegated Act, 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 interests of justice and having regard to the objectives of the Energy Labelling Framework Regulation or relevant Delegated Act 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 under 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 provision 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 of and detection of a failure or refusal to comply with a direction or part of a direction in the time specified in the direction.

Application to appropriate court for failure to comply with direction

11. (1) Where a supplier or dealer does not comply with a direction under Regulation 7 or 8, 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 supplier or dealer has failed or refused to comply with 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 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 in the time specified in the direction.

Service of direction

12. (1) A direction shall—

- (a) be in writing, and
- (b) be served on the supplier or dealer of the product.

(2) A direction shall be addressed to the supplier or dealer of the product and may be served on that person in one of the following ways:

- (a) by delivering it to the address of the supplier or dealer;
- (b) by leaving it at the address at which the supplier or dealer 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 supplier or dealer 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 supplier or dealer ordinarily resides or, in a case in which an address for service has been furnished, at that address, but only if 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 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 warning given under Regulation 6 or a direction given under Regulation 7 or 8 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 7 or 8 and includes a warning under Regulation 6, and a notice under Regulation 7(1)(b) or 9(2)(c).

Part 3

MARKET SURVEILLANCE AND PENALTIES

Appointment of authorised officers

13. (1) Authorised officers for the purposes of these Regulations, the Energy Labelling Framework Regulation, Market Service Regulation, or Delegated Acts may be appointed by SEAI.

(2) An authorised officer shall be furnished with a warrant of his or her appointment as an authorised officer.

(3) When exercising a power conferred on him or her under this Regulation, an authorised officer shall, if requested by a person thereby affected, produce the warrant of his or her appointment, or a copy of it, to that person and a form of personal identification.

(4) An appointment under subsection (1) may be revoked at any time by SEAI

(5) A person who was an authorised officer, appointed under S.I. No. 366 of 2011, immediately before the date on which these regulations came into operation shall continue as an authorised officer as if appointed pursuant to these regulations.

Powers of authorised officers

14. (1) An authorised officer shall, for the purposes of the enforcement of the provisions of the Energy Labelling Framework Regulation, the Market Surveillance Regulation and these Regulations have the power to do one or more of the following:

- (a) require a supplier or dealer to provide relevant documents, technical specifications, data or information on compliance and technical aspects of the 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 Energy Labelling Framework Regulation or an applicable Delegated Act, 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 a supplier or dealer to provide relevant information on the supply chain, on the details of the distribution network, on quantities of products on the market and on other product models that have the same technical characteristics as the product in question, where relevant for compliance with the applicable requirements under the Energy Labelling Framework Regulation or applicable Delegated Act;

- (c) require a supplier or dealer 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 products;
- (e) subject to paragraphs (3) and (5), enter at any time without warrant any place, in order to identify potential non-compliance, obtain evidence 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 any inquiry, search, examination, investigation or inspection under the Energy Labelling Framework Regulation or an applicable Delegated Act, the Market Surveillance Regulation or these Regulations.
- (g) require any person in charge of a place to
 - (i) produce to the authorised officer any 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 or records referred to in (ii);
- (h) require a person in charge of a place or any 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, or 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 Energy Labelling Framework Regulation or an applicable Delegated Act, 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 Energy Labelling Framework Regulation or an applicable Delegated Act, 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 that 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 Energy Labelling Framework Regulation or an applicable Delegated Act, 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 reasonably necessary to enable the authorised officer to exercise any of 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 Energy Labelling Framework Regulation or an applicable Delegated Act, 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 Energy Labelling Framework Regulation or an applicable Delegated Act, 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 search, examination, investigation or inspection under the Energy Labelling Framework Regulation or an applicable Delegated Act, 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 Energy Labelling Framework Regulation or an applicable Delegated Act, 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 a supplier or dealer to take appropriate action to bring an instance of non-compliance to an end or to eliminate the risk;
- (s) take appropriate measures where a supplier or dealer 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 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 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 product regulated by a Delegated Act or part thereof
 - (ii) to ensure that such product 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 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 (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, or
- (b) in accordance with a warrant of the District Court issued under paragraph (5) authorising such entry.

(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 products regulated by the Energy Labelling Framework Regulation or an applicable Delegated Act 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 Energy Labelling Framework Regulation, these Regulations or the relevant Delegated Act, held at any place, or
- (b) there is at any place, or such an inspection is at any place, likely to disclose, evidence of a contravention of the Energy Labelling Framework Regulation, these Regulations, or the relevant Delegated Act, 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 these regulations, the Energy Labelling Framework Regulation or the Market Surveillance Regulation or an applicable Delegated Act, or
- (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 14(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).

Penalties

15. (1) A person who commits an offence under Regulation 14(9) is liable on summary conviction, to a class A fine.

(2) A person who commits an offence under these Regulations (other than an offence referred to in paragraph (1)) is liable –

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

Offences by bodies corporate

16. (1) Where an offence under these Regulations is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a person being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate commits an offence and is liable to be proceeded against and punished as if they had committed the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with their functions of management as if they were a director or manager of the body corporate.

Prosecutions

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

(2) Where, before the date on which these regulations come into operation, the Minister has brought summary proceedings for an offence under the European Union (Energy Labelling) Regulations 2011 (S.I. No. 366/2011) and, by that date, those summary proceedings have not concluded then said proceedings may be prosecuted summarily by SEAI.

(3) Any proceedings for an offence under the European Union (Energy Labelling) Regulations 2011 (S.I. No. 366/2011) which were commenced but not concluded before the date on which these regulations come into operation may be continued by SEAI as if these regulations had not been made.

(4) Subject to paragraph (3), these regulations shall apply to any proceedings initiated after the commencement of these regulations where the proceedings relate to a breach which is alleged to have occurred prior to the commencement of these regulations.

(5) 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 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.

Part 4

MISCELLANEOUS

Revocations

18. European Union (Energy Labelling) Regulations 2011 (S.I. No. 366/2011) are revoked.



GIVEN under my Official Seal,
14 December, 2022.

EAMON RYAN,
Minister for the Environment,
Climate and Communications.

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 energy labelling 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 Regulation 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing the European Union (Energy Labelling) Regulations 2011 (S.I. No. 366 of 2011).

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 Regulation (EU) 2017/1369, with a view to ensuring the free movement of compliant products within the EU.

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