

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND WINDSOR FRAMEWORK

C(2023)3538

SEC(2023)164: Opinion of the regulatory Scrutiny Board

SWD(2023)101: Impact Assessment

SWD(2023)102: Impact Assessment Executive Summary

Commission Regulation (EU) 2023/1670 of 16 June 2023 laying down ecodesign requirements for smartphones, mobile phones other than smartphones, cordless phones and slate tablets pursuant to Directive 2009/125/EC of the European Parliament and of the Council and amending Commission Regulation (EU) 2023/826 (C(2023) 3538).

Commission Delegated Regulation (EU) 2023/1669 of 16 June 2023 supplementing Regulation (EU) 2017/1369 of the European Parliament and of the Council with regard to the energy labelling of smartphones and slate tablets. (C(2023)1672). Note: this document was not deposited separately but it was agreed it would be referenced in this EM.

Submitted by Department for Energy Security and Net Zero 2023.

SUBJECT MATTER

1. On 16 June 2023, the Commission announced new rules for mobile phones and tablets as part of the EU's "European Green Deal". This Ecodesign Regulation was published as part of a package which included Commission Delegated Regulation (EU) 2023/1669 supplementing Regulation (EU) 2017/1369 of the European Parliament and the Council with regard to the energy labelling of smartphones and slate tablets (C(2023) 1672).
2. The Ecodesign Regulation sets out minimum requirements for the first time on mobile phones, cordless phones and tablets being placed on the EU market, including:
 - Resistance to accidental drops or scratches, protection from dust and water and use of sufficiently durable batteries. Batteries will be required to withstand at least 800 cycles of charge and discharge while retaining at least 80% of their initial capacity.
 - Rules on disassembly and repair, including obligations for producers to make critical spare parts available to repairers within 5-10 working days, and until 7 years after the end of sales of the product model on the EU market.

- Availability of operating system upgrades for longer periods: for at least 5 years after the product has been placed on the market.
 - Non-discriminatory access for professional repairers to any software or firmware needed for the replacement.
 - Article 9 excludes cordless phones covered by the Ecodesign Regulation from the scope of Regulation (EU) 2023/826, which requires reduced electricity consumption of certain energy-related goods when they are in low power mode.
3. In addition, Commission Delegated Regulation (EU) 2023/1669 (C(2023) 1672) (the "Energy Labelling Regulation") complements the Ecodesign Regulation by requiring smartphones and tablets put on the EU market to display information on their energy efficiency, battery longevity, protection from dust and water, and resistance to accidental drops. The label will follow the established model of A-G scale EU labels with further information available from the EU-wide database: European Product Registry for Energy Labels (EPREL).

SCRUTINY HISTORY

4. Article 9 excludes cordless phones which are regulated by the Ecodesign Regulation from Commission Regulation (EU) 2023/826 of 17 April 2023, which was deposited as EU document C(2023)2448 on which DESNZ submitted an EM dated 22 May 2023. The Commission Regulation was sifted to the House of Lords Northern Ireland Protocol (since renamed the Windsor Framework) Sub-Committee for examination (Sift 36) but has yet to be reported on by the Sub-Committee. The Commission Regulation has yet to be examined by the House of Commons European Scrutiny Committee.

MINISTERIAL RESPONSIBILITY

5. The Secretary of State for Energy Security and Net Zero has overall responsibility for existing Ecodesign and Energy Labelling Regulations.
6. The Secretary of State for Environment, Food and Rural Affairs has responsibility for resource efficiency policy in as much as it contributes to the minimisation of waste and protection of the natural environment.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

7. Ecodesign and energy labelling are reserved matters under the devolution settlements in Scotland, Wales and Northern Ireland.
8. 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 (“the Ecodesign Directive”) is listed in Annex 2 to the Windsor Framework.

9. 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 is also listed in Annex 2 to the Windsor Framework.

LEGAL AND PROCEDURAL ISSUES

10. The Ecodesign Regulation is an implementing measure made under Article 15 of the Ecodesign Directive. The Ecodesign Directive was itself based on Article 95 of the Treaty establishing the European Community (now Article 114 TFEU) which is to be used for measures aiming at the establishment and functioning of the internal market.
11. The voting procedure is the regulatory procedure with scrutiny in accordance with Article 19(3) of the Ecodesign Directive. The Ecodesign Regulation came into force on 20 September 2023 and, other than Article 6, its provisions will apply from 20 June 2025.
12. Regulation (EU) 2017/1369 empowers the European Commission to adopt delegated acts as regards the labelling or re-scaling of the labelling of product groups representing significant potential for energy savings and, where relevant, other resources.
13. The Energy Labelling Regulation is a delegated act made under Article 16 of Regulation (EU) 2017/1369. It was published by the Commission on 16 June 2023 and came into force on 20 September 2023.
14. It will apply from 20 June 2025.
15. The Ecodesign Regulation measure was made under the Ecodesign Directive which is listed in Annex 2 to the Windsor Framework. The Energy Labelling Regulation was made under Regulation (EU) 2017/1369 which is also listed in Annex 2 to the Windsor Framework.

POLICY AND LEGAL IMPLICATIONS

16. The Regulations will apply in NI. There is no equivalent regulation in GB so products meeting these EU rules can be placed on the GB market.
17. The Government is committed to increasing the environmental performance of energy-related products through greater energy and resource efficiencies and in November 2021, the then Department for Business, Energy and Industrial Strategy published the Energy-related Products Policy Framework. This sets

out how the Government plans to drive energy-related products to use less energy and other resources to help achieve Carbon Budgets 5 and 6 and to save consumers money on their energy bills. The Framework sets out priority products, focusing on areas offering the most carbon abatement potential.

18. The Department for Energy Security and Net Zero has commissioned research into the impact of divergence. This will help provide the evidence base to determine the Government's response to the new EU energy-related products regulations. Once this research is completed, we will work with NIE to examine impacts of divergence.

CONSULTATION

19. The Commission will review this Regulation in the light of technological progress and present the result of this assessment including, if appropriate, a draft revision proposal, to the Consultation Forum.

FINANCIAL IMPLICATIONS

20. The Commission's Impact Assessment suggested that SMEs belonging to the repair and maintenance sector will benefit strongly due to the proposed Ecodesign requirements on repairability and ease of disassembly. Not only would new repairers be attracted to the sector, but existing ones will also grow.

MINISTERIAL NAME AND SIGNATURE

A handwritten signature in blue ink, appearing to read 'Martin Callan', is centered on the page.

Lord Callanan

Minister for Energy Efficiency and Green Finance

Department for Energy Security and Net Zero