



Environment briefing note | February 2017

#10ThingsSH you need to know: product stewardship and energy labelling

The energy labelling rules apply to those products that consume energy during use. Whether the products are manufactured within the EU, in the US, or further afield, the energy labelling rules will apply if the product is placed on the market in the UK and the EU. Products range from commercial and industrial plant to domestic appliances. The rules also apply to the energy-consuming component parts of those products. The rules bind both suppliers and dealers, with the overall aim of ensuring that the energy consumption of products is brought to the attention of consumers before purchase.

Despite Brexit, these rules will apply in the UK as the underlying EU Directives have now been fully transposed into domestic legislation.

In this note we set out the ten things businesses should know about energy labelling.

What makes you a "supplier" or a "dealer"?

1. A "supplier" includes: a manufacturer of a product; the manufacturer's authorised representative; and the person who places the product on the market or puts the product into service (if you import from outside the EU you will be under obligations as a supplier).
2. A "dealer" is a retailer or other person who sells, hires, offers for hire-purchase or displays household appliances to end users.

What appliances are included?

3. Effectively all energy-using and energy-related products including washing machines, tumble dryers, washer dryers, dishwashers, electric ovens, refrigerators and freezers, air conditioners, televisions and electrical lamps and luminaires. Each of these appliances has its own delegated EU Regulation providing individual requirements. It is important to note that these requirements apply to online selling too.

What am I required to do as a Supplier?

4. You must supply to Dealers, free of charge, a label and a standard table of information (known as a fiche) relating to the product. The contents of the label and fiche are governed by the specific EU Regulation for that product and are based on the consumption of energy and other essential resources during use. However, all appliances will adhere to a seven-tier classification system with a colour scale from dark green (most efficient) to red (least efficient).
5. You must maintain a technical file containing information that will allow the enforcement authority to check the accuracy of the energy rating of the product. The EU Regulation sets out what is required in this documentation and it must be made available for inspection purposes for a period ending five years after the last product concerned was manufactured.

What am I required to do as a Dealer?

6. When a product is displayed, Dealers must attach the label provided by the Supplier in a clearly visible position specified in the specific EU Regulation for that product.
7. Dealers must make the fiche available in the product brochure or any literature that accompanies the product when sold to end-users.

Could your business be in breach, and if so, what are the consequences?

8. Contravention of these requirements, including the provision of incorrect or misleading information, is an offence and the market surveillance authority has a range of enforcement options. The enforcement options include extensive investigation powers and search and seizure powers. The market surveillance authority can also issue various notices, for example, a stop notice requiring immediate action in relation to the offence prohibiting the business from carrying on an activity. Finally, there is no limit in the fine that can be imposed.
9. Company officers (directors, managers, secretaries or other similar officers of the company) are also guilty of an offence if their company is found to have committed the offence with their consent or due to their neglect.
10. To reduce the chances of breaching the energy labelling rules, business practices should be audited regularly. This could take the form of an internal compliance team, or through the deployment of an independent, external advisor.

How can Stephenson Harwood help?

More than ever, environmental and climate change issues are at the heart of law and policy, impacting every business sector. Stephenson Harwood's Environment Group has experience advising domestic and international product manufacturers on the full range of EU-led, product-based regulations.

To keep track of our full Product Stewardship Series keep an eye on **Stephenson Harwood's news and insights page**, or follow us on Twitter **@SH_EnviroPlan** and look out for our hashtag **#10thingsSH**.

For further information please contact us.



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