

Subsidiary Legislation made under s..

Ecodesign for Sustainable Products Regulations 2026

LN.2026/161

Commencement **15.7.2026**

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In exercise of the powers conferred under section 13 of the Treaty on Gibraltar and the European Union Act 2026 and to make provision for the purposes of the implementation of Article 219(4) of the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community of the one part and the United Kingdom of Great Britain and Northern Ireland in respect of Gibraltar on the second part, the Government has made the following Regulations—

**PART 1
PRELIMINARY**

Title.

1. These Regulations may be cited as the Ecodesign for Sustainable Products Regulations 2026.

Commencement.

2. These Regulations come into operation on the Implementation Date.

Interpretation.

- 3.(1) In these Regulations, unless the context otherwise requires—

“accreditation” means an attestation by an accreditation body in Gibraltar that a conformity assessment body meets the requirements set by harmonised standards and, where applicable, any additional requirements including those set out in relevant sectoral schemes, to carry out a specific conformity assessment activity;

“authorised representative” means any natural or legal person established in Gibraltar or in the European Union that has received a written mandate from the manufacturer to act on the manufacturer's behalf in relation to specified tasks with regard to the manufacturer's obligations under these Regulations;

“carbon footprint” means the sum of greenhouse gas emissions and greenhouse gas removals in a product system, expressed as CO₂ equivalents and based on a life cycle assessment using the single impact category of climate change;

“CE marking” means a marking by which the manufacturer indicates that the relevant product is in conformity with the applicable requirements set out in Union harmonisation legislation or equivalent Gibraltar legislation providing for its affixing;

“competent authority” means such authority or authorities as the Minister may designate by Notice in the Gazette for the purposes of these Regulations or any Part thereto;

“component” means a product intended to be incorporated into another product;

“conformity assessment” means the process demonstrating whether the ecodesign requirements set out in the relevant ecodesign requirements regulations have been fulfilled;

“conformity assessment body” means a body that performs conformity assessment activities including calibration, testing, certification and inspection;

“consumer” has the meaning given by applicable consumer protection legislation in Gibraltar;

“consumer product” means any product, excluding components and intermediate products, primarily intended for consumers;

“corrective action” means action taken by an economic operator to eliminate or mitigate a non-compliance;

“customer” means a natural or legal person that purchases, hires or receives a product for their own use whether or not acting for purposes which are outside their trade, business, craft or profession;

“data carrier” means a linear barcode symbol, a two-dimensional symbol or other automatic identification data capture medium that can be read by a device;

“dealer” means a distributor or any other natural or legal person that offers products for sale, hire or hire purchase, or that displays products, to end users in the course of a commercial activity, including through distance selling, and includes any natural or legal person that puts a product into service in the course of a commercial activity;

“destruction” means the intentional damaging or discarding of a product as waste, with the exception of discarding for the sole purpose of delivering the discarded product for preparing for reuse, including refurbishment or remanufacturing operations;

“digital product passport” means a set of data specific to a product that includes the information specified in the applicable ecodesign requirements regulations and that is accessible via electronic means through a data carrier;

“digital product passport service provider” means a natural or legal person that is an independent third party authorised by the economic operator which places the product on the market or puts it into service and that processes the digital product passport data for that product for the purpose of making such data available to economic operators and other relevant actors;

“distance selling” means the offer for sale, hire or hire purchase of products, online or through other means of distance sales, whereby the potential customer cannot physically access the product;

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

“durability” means the ability of a product to maintain over time its function and performance under specified conditions of use, maintenance and repair;

“ecodesign” means the integration of environmental sustainability considerations into the characteristics of a product and the processes taking place throughout the product's value chain;

“ecodesign requirements regulations” means—

- (a) delegated acts adopted by the European Commission under Article 4 of the EU Regulation, as they constitute ecodesign requirements in Gibraltar by virtue of regulation 6; and
- (b) regulations made by the Minister under regulation 6;

“ecodesign requirement” means a performance requirement or an information requirement aimed at making a product, including processes taking place throughout the product's value chain, more environmentally sustainable;

“economic operator” means the manufacturer, the authorised representative, the importer, the distributor, the dealer and the fulfilment service provider;

“end user” means any natural or legal person residing or established in Gibraltar, to whom a product has been made available either as a consumer or as a professional end user in the course of their commercial or industrial activities;

“energy-related product” means any product that has an impact on energy consumption during use;

“environmental footprint” means a quantification of the environmental impacts resulting from a product throughout its life cycle, whether in relation to a single environmental impact category or an aggregated set of impact categories based on the Product Environmental Footprint method or other scientific methods developed by international organisations;

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“EU Regulation” means Regulation (EU) 2024/1781 of the European Parliament and of the Council of 13 June 2024 establishing a framework for the setting of ecodesign requirements for sustainable products as amended from time to time;

“fulfilment service provider” means any natural or legal person offering, in the course of a commercial activity, at least two of the following services: warehousing, packaging, addressing and dispatching, without having ownership of the products involved;

“the Implementation Date” has the meaning given in section 3 of the Treaty on Gibraltar and the European Union Act 2026;

“importer” means any natural or legal person established in Gibraltar that places a product from outside Gibraltar on the market;

“independent operator” means a natural or legal person that is independent of the manufacturer and is directly or indirectly involved in the refurbishment, repair, maintenance or repurposing of a product;

“information requirement” means an obligation for a product to be accompanied by information as specified in regulation 11;

“intermediate product” means a product that requires further manufacturing or transformation such as mixing, coating or assembling to make it suitable for end-users;

“life cycle” means the consecutive and interlinked stages of a product's life, consisting of raw material acquisition or generation from natural resources, pre-processing, manufacturing, storage, distribution, installation, use, maintenance, repair, upgrading, refurbishment and reuse, and end-of-life;

“maintenance” means one or more actions carried out to keep a product in a condition where it is able to fulfil its intended purpose;

“making available on the market” means any supply of a product for distribution, consumption or use on the market in Gibraltar in the course of a commercial activity, whether in return for payment or free of charge;

“manufacturer” means any natural or legal person that manufactures a product or that has a product designed or manufactured, and markets that product under their name or trademark;

“market surveillance authority” means the competent authority designated under regulation 51;

“microenterprise”, “small enterprise” and “SME” have the meanings given by the Companies Act 2014;

“Minister” means the Minister with responsibility for the environment;

“notified body” means a conformity assessment body notified in accordance with Part 10;

“notifying authority” means the authority designated under regulation 46;

“performance requirement” means a quantitative or non-quantitative requirement for or in relation to a product to achieve a certain performance level in relation to a product parameter referred to in Schedule 1;

“placing on the market” means the first making available of a product on the market in Gibraltar;

“premature obsolescence” means a product design feature or subsequent action or omission resulting in the product becoming non-functional or performing less well without such changes of functionality or performance being the result of normal wear and tear;

“product” means any physical goods that are placed on the market or put into service;

“product group” means a set of products that serve similar purposes and are similar in terms of use, or have similar functional properties, and are similar in terms of consumer perception;

“professional repairer” means a natural or legal person that provides professional repair or maintenance services for a product, irrespective of whether that person acts within the manufacturer's distribution system or independently;

“provider of an online marketplace” means a provider of an intermediary service using an online interface which allows customers to conclude distance contracts with economic operators for the sale of products covered by ecodesign requirements regulations;

“putting into service” means the first use, for its intended purpose, of a product in Gibraltar;

“recognised standard” means a harmonised standard the reference of which has been published in the Official Journal of the European Union, an equivalent British or international standard recognised by the Minister, or a common specification adopted by the European Commission, as the Minister may by notice in the Gazette specify;

“recycling” has the meaning given by the Public Health Act;

“refurbishment” means actions carried out to prepare, clean, test, service and, where necessary, repair a product or a discarded product in order to restore its performance or functionality within the intended use and range of performance originally conceived at the design stage;

“reliability” means the probability that a product functions as required under given conditions for a given duration without an occurrence which results in a primary or secondary function of the product no longer being performed;

“remanufacturing” means actions through which a new product is produced from objects that are waste, products or components and through which at least one change is made that substantially affects the safety, performance, purpose or type of the product;

“repair” means one or more actions carried out to return a defective product or waste to a condition where it fulfils its intended purpose;

“substance of concern” means a substance that—

- (a) meets the criteria for identification as a substance of very high concern;
- (b) is classified in certain hazard classes or hazard categories including carcinogenicity, germ cell mutagenicity, reproductive toxicity, endocrine disruption, persistent, bioaccumulative and toxic properties, respiratory or skin sensitisation, hazardous to the aquatic environment, or hazardous to the ozone layer, as specified in Schedule 2;
- (c) is regulated under persistent organic pollutants legislation; or
- (d) negatively affects the reuse and recycling of materials in the product in which it is present;

“supply chain” means all upstream activities and processes of the product's value chain, up to the point where the product reaches the customer;

“unique product identifier” means a unique string of characters for the identification of a product that also enables a web link to the digital product passport;

“unsold consumer product” means any consumer product that has not been sold, including surplus stock, excess inventory and deadstock and products returned by a consumer on the basis of their right of withdrawal;

“upgrading” means actions carried out to enhance the functionality, performance, capacity, safety or aesthetics of a product;

“value chain” means all activities and processes that are part of the life cycle of a product, as well as its possible remanufacturing;

“waste” has the meaning given by the Public Health Act.

(2) In these Regulations, references to the EU Regulation are references to that Regulation as it applies from time to time, except where the context otherwise requires.

(3) The Minister may by regulations amend subregulation (1) so as to add, modify or remove definitions, where such amendments are necessary or expedient for the purposes of maintaining alignment with the EU Regulation or any delegated or implementing acts adopted thereunder.

Application and scope.

4.(1) Subject to subregulation (2), these Regulations apply to any physical goods that are placed on the market or put into service in Gibraltar, including components and intermediate products.

(2) These Regulations do not apply to—

- (a) food as defined in applicable food safety legislation;
- (b) animal feed as defined in applicable food safety legislation;
- (c) medicinal products for human use;
- (d) veterinary medicinal products;
- (e) living plants, animals and micro-organisms;
- (f) products of human origin;
- (g) products of plants and animals relating directly to their future reproduction;
- (h) vehicles, in respect of those product aspects for which requirements are set under sector-specific legislation applicable to those vehicles; or
- (i) products whose sole purpose is to serve defence or national security.

(3) Subject to subregulation (2), the Minister may by ecodesign requirements regulations extend or restrict the scope of application of these Regulations in relation to specific product groups, in so far as is necessary to maintain alignment with the EU Regulation.

Free movement of products.

5.(1) Products shall only be placed on the market or put into service if they comply with the applicable ecodesign requirements set out in ecodesign requirements regulations.

(2) The Government shall not prohibit, restrict or impede the placing on the market or putting into service of products that comply with the performance requirements and information requirements set out in ecodesign requirements regulations for reasons of non-compliance with any other local performance or information requirements relating to product parameters covered by such ecodesign requirements regulations.

(3) At trade fairs, exhibitions and similar events, products that do not comply with requirements set in ecodesign requirements regulations may be shown provided that a visible sign clearly indicates that such products do not comply with the applicable requirements and that they are not for sale until they have been brought into conformity.

PART 2
ECODESIGN REQUIREMENTS

Application of EU delegated acts and power to make supplementary ecodesign requirements regulations.

6.(1) Delegated acts adopted by the European Commission under Article 4 of the EU Regulation shall, from their respective dates of application, constitute ecodesign requirements for the purposes of these Regulations.

(2) References in a delegated act to Member States, the Commission or Union institutions shall, for the purposes of the application of that act in Gibraltar, be read as references to the Minister, the competent authority or the relevant authority in Gibraltar, as the context requires.

(3) Where the Minister considers that a delegated act requires modification or supplementary provision for its effective application in Gibraltar, the Minister may make regulations under regulation 6 for that purpose.

(4) The Minister may make regulations for the purpose of adapting, supplementing or giving further effect to delegated acts that apply in Gibraltar by virtue of subregulations (1) to (3), or setting ecodesign requirements for product groups not yet covered by such delegated acts.

(5) Regulations made under this regulation shall be consistent with the delegated acts applying in Gibraltar by virtue of subregulations (1) to (3), and shall not derogate from the ecodesign requirements established by those acts except to the extent necessary for adaptation to Gibraltar's circumstances.

(6) Regulations may include—

- (a) performance requirements as set out in regulation 10;
- (b) information requirements as set out in regulation 11;
- (c) requirements for digital product passports in accordance with Part 3;
- (d) requirements for labels in accordance with Part 4;
- (e) conformity assessment procedures;
- (f) test, measurement and calculation standards or methods;
- (g) transitional provisions;
- (h) any additional reporting, monitoring or information obligations on economic operators;
- (i) provisions for the recognition of self-regulation measures; and
- (j) such other provisions as the Minister considers necessary or expedient for the purposes of applying, as far as reasonably practicable, the EU Regulation or any delegated or implementing acts adopted thereunder.

(7) Any regulations shall provide economic operators with sufficient time to comply, taking into account the needs of SMEs, and in particular microenterprises.

(8) When making regulations under this regulation, the Minister shall have regard to—

- (a) the delegated acts applying in Gibraltar by virtue of subregulations (1)-(3);
- (b) the objectives of improving the environmental sustainability and circularity of products;
- (c) Gibraltar's obligations under the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community of the one part and

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the United Kingdom of Great Britain and Northern Ireland in respect of Gibraltar on the second part; and

(d) the criteria and procedures set out in these Regulations and the Schedules.

(9) Where the Minister makes regulations under this regulation in advance of the date of application of a corresponding EU delegated act, such regulations shall not enter into force before that date.

Prioritisation and planning.

7.(1) The Minister shall have regard to, and may give effect in Gibraltar to, the working plan adopted and published by the European Commission under Article 18 of the EU Regulation.

(2) The Minister may from time to time publish a statement of supplementary priorities identifying any product groups for which the Minister proposes to make ecodesign requirements regulations under regulation 6, including product groups not yet covered by a delegated act, together with—

- (a) estimated timelines for making such regulations; and
- (b) any product groups for which prohibition of the destruction of unsold consumer products is to be considered.

(3) When preparing any such statement, the Minister shall have regard to—

- (a) the working plan of the European Commission referred to in subregulation (1);
- (b) the potential contribution of products to achieving environmental and climate objectives;
- (c) the volume of sales and trade of those products within Gibraltar; and
- (d) the need to review and adapt ecodesign requirements in light of technological and market developments.

(4) The Minister shall publish any statement of supplementary priorities made under subregulation (2), and any updates thereto.

Product aspects.

8.(1) Ecodesign requirements set in ecodesign requirements regulations shall, where relevant to the product group concerned, address the following product aspects—

- (a) durability;
- (b) reliability;
- (c) reusability;
- (d) upgradability;
- (e) repairability;
- (f) the possibility of maintenance and refurbishment;
- (g) the presence of substances of concern;
- (h) energy use and energy efficiency;
- (i) water use and water efficiency;
- (j) resource use and resource efficiency;
- (k) recycled content;
- (l) the possibility of remanufacturing;
- (m) recyclability;
- (n) the possibility of the recovery of materials;
- (o) environmental impacts, including carbon footprint and environmental footprint;
and
- (p) expected generation of waste.

(2) Ecodesign requirements shall, where relevant, be designed to ensure based on the product parameters referred to in Schedule 1 that products do not become prematurely obsolete.

Criteria for ecodesign requirements.

9.(1) Ecodesign requirements shall meet the following criteria—

- (a) there shall be no significant negative impact on the functionality of the product from the perspective of the user;

- (b) there shall be no adverse effect on the health and safety of persons;
- (c) there shall be no significant negative impact on consumers in terms of the affordability of relevant products, also taking into account access to second-hand products, durability and the life cycle cost of products;
- (d) there shall be no disproportionate negative impact on the competitiveness of economic operators and other actors in the value chain, including SMEs, and in particular microenterprises;
- (e) there shall be no proprietary technology imposed on manufacturers or other actors in the value chain; and
- (f) there shall be no disproportionate administrative burden on manufacturers or other actors in the value chain, including SMEs, and in particular microenterprises.

(2) Ecodesign requirements shall be verifiable.

Performance requirements.

10.(1) Where ecodesign requirements regulations set performance requirements for a product group, such requirements shall be based on the relevant product parameters referred to in Schedule 1.

(2) Performance requirements may include—

- (a) minimum or maximum levels in relation to a specific product parameter or a combination thereof; or
- (b) non-quantitative requirements that aim to improve performance in relation to one or more such product parameters.

(3) Performance requirements based on the product parameter relating to substances of concern shall not restrict, for reasons relating primarily to chemical safety, the presence of substances in products, but shall take into account the reduction of significant risks to human health or the environment.

(4) Performance requirements shall be set in accordance with the procedure set out in Schedule 3.

Information requirements.

11.(1) Where ecodesign requirements regulations set information requirements for a product group, such requirements shall include, as a minimum—

- (a) requirements related to the digital product passport set out in Part 3; and
 - (b) requirements related to substances of concern set out in subregulation (4).
- (2) Information requirements may also require products to be accompanied by—
- (a) information on the performance of the product in relation to one or more product parameters, including a reparability score, a durability score, a carbon footprint or an environmental footprint;
 - (b) information for customers and other actors on how to install, use, maintain and repair the product in order to minimise its environmental impact and to ensure optimum durability, and on how to return or handle the product at end-of-life;
 - (c) information for treatment facilities on disassembly, reuse, refurbishment, recycling, or disposal at end-of-life; and
 - (d) other information that could influence sustainable product choices for customers.
- (3) Information requirements shall be clear, easily understandable and tailored to the particular characteristics of the product groups concerned and the intended recipients of the information.
- (4) Unless otherwise provided for in ecodesign requirements regulations, information requirements shall make it possible to track substances of concern throughout the life cycle of the products concerned and shall include at least—
- (a) the name or numerical code of the substances of concern present in the product;
 - (b) the location of the substances of concern within the product;
 - (c) the concentration, maximum concentration or concentration range of the substances of concern;
 - (d) relevant instructions for the safe use of the product; and
 - (e) information relevant for disassembly, preparation for reuse, reuse, recycling and the environmentally sound management of the product at end-of-life.

(5) Information that must be supplied pursuant to information requirements shall be provided in English.

(6) Information requirements shall indicate the manner in which the required information is to be made available.

PART 3

DIGITAL PRODUCT PASSPORT

Requirement for digital product passport.

12.(1) Where ecodesign requirements regulations so provide, products shall only be placed on the market or put into service if a digital product passport is available in accordance with those regulations and with regulations 13 and 14.

(2) The data in the digital product passport shall be accurate, complete and up to date.

Essential requirements for the digital product passport.

13.(1) A digital product passport shall comply with the following essential requirements—

- (a) it shall be connected through a data carrier to a persistent unique product identifier;
- (b) the data carrier shall be physically present on the product, its packaging or on documentation accompanying the product, as specified in the applicable ecodesign requirements regulations;
- (c) the data carrier and the unique product identifier shall comply with the standards referred to in Schedule 4, or equivalent European or international standards;
- (d) all data included in the digital product passport shall be based on open standards, developed with an interoperable format and shall be, as appropriate, machine-readable, structured, searchable and transferable through an open interoperable data exchange network without vendor lock-in;
- (e) personal data relating to customers shall not be stored in the digital product passport without their explicit consent in compliance with applicable data protection legislation;
- (f) the data included in the digital product passport shall refer to the product model, batch or item as specified in the applicable ecodesign requirements regulations; and

- (g) access to data included in the digital product passport shall be regulated in accordance with the access rights specified in the applicable ecodesign requirements regulations.
- (2) The economic operator placing the product on the market shall—
- (a) provide dealers and providers of online marketplaces with a digital copy of the data carrier or the unique product identifier, as relevant, to allow them to make it accessible to potential customers where they cannot physically access the product; and
 - (b) provide the digital copy referred to in subregulation (2)(a) or a webpage link free of charge promptly and in any event within five working days of receiving a request.
- (3) The economic operator, when placing the product on the market, shall make available a back-up copy of the digital product passport through a digital product passport service provider.

Technical design and operation.

14.(1) The technical design and operation of the digital product passport shall comply with the following essential requirements—

- (a) the digital product passport shall be fully interoperable with other digital product passports required by ecodesign requirements regulations;
- (b) customers, manufacturers, importers, distributors, dealers, professional repairers, independent operators, refurbishers, remanufacturers, recyclers, market surveillance authorities and customs authorities shall have free of charge and easy access to the digital product passport based on their respective access rights set out in the applicable ecodesign requirements regulations;
- (c) the digital product passport shall be stored by the economic operator responsible for its creation or by digital product passport service providers;
- (d) where a new digital product passport is created for a product that already has a digital product passport, the new digital product passport shall be linked to the original;

- (e) the digital product passport shall remain available for the period specified in ecodesign requirements regulations, including after an insolvency, liquidation or cessation of activity of the economic operator responsible for its creation;
- (f) data authentication, reliability and integrity shall be ensured; and
- (g) digital product passports shall be designed and operated so that a high level of security and privacy is ensured and fraud is avoided.

(2) If the digital product passport is stored or otherwise processed by digital product passport service providers, those providers shall not sell, reuse or process such data, in whole or in part, beyond what is necessary for the provision of the relevant storing or processing services, unless specifically agreed with the economic operator placing the product on the market or putting it into service.

Digital product passport registry.

15.(1) The competent authority shall recognise the digital product passport registry established by the European Commission under the EU Regulation.

(2) Economic operators placing products on the market in Gibraltar shall comply with any obligations to upload data to the registry as required by ecodesign requirements regulations.

(3) The competent authority and HM Customs Gibraltar shall have access to the registry for the purposes of carrying out their duties under these Regulations.

Customs controls relating to the digital product passport.

16.(1) Any person intending to release for free circulation in Gibraltar a product covered by ecodesign requirements regulations shall provide or make available to HM Customs Gibraltar the unique registration identifier of that product as referred to in regulation 13.

(2) HM Customs Gibraltar may release a product for free circulation only after having verified that the unique registration identifier and the commodity code correspond to the data stored in the registry.

(3) The release for free circulation shall not be deemed to be proof of compliance with these Regulations or any other enactment.

**PART 4
LABELS**

Labels.

17.(1) Where ecodesign requirements regulations require information to be included in a label, such regulations shall specify—

- (a) the content of the label;
- (b) the layout of the label, ensuring visibility and legibility;
- (c) the manner in which the label is to be displayed to customers, including in the event of distance selling; and
- (d) where appropriate, electronic means for generating labels.

(2) Where an information requirement entails the inclusion in a label of a class of performance, the layout of the label shall be clear and easily understandable, and shall enable customers to easily compare product performance and to choose better performing products.

Mimicking labels.

18. Products that bear or are accompanied by labels that are likely to mislead or confuse customers by mimicking the labels provided for in regulation 17, or products that are accompanied by any other information which is likely to mislead or confuse customers with regard to such labels, shall not be placed on the market or put into service.

PART 5 DESTRUCTION OF UNSOLD CONSUMER PRODUCTS

General principle of prevention of destruction.

19. Economic operators shall take necessary measures which can reasonably be expected to prevent the need to destroy unsold consumer products.

Disclosure of information on unsold consumer products.

20.(1) Economic operators that discard unsold consumer products directly or have unsold consumer products discarded on their behalf shall disclose—

- (a) the number and weight of unsold consumer products discarded per year, differentiated per type or category of products;
- (b) the reasons for discarding products, and where applicable, the relevant derogation under regulation 21(4);

- (c) the proportion of discarded products delivered to undergo each of the following activities: preparing for reuse (including refurbishment and remanufacturing), recycling, other recovery (including energy recovery), and disposal operations in accordance with the waste hierarchy; and
 - (d) measures taken and measures planned for the purpose of preventing the destruction of unsold consumer products.
- (2) Economic operators shall disclose the information referred to in subregulation (1) in a clear and visible manner at least on an easily accessible page of their website.
- (3) Economic operators shall disclose the information referred to in subregulation (1) on an annual basis and shall include the unsold consumer products discarded during the preceding financial year. They shall make the information for each year publicly available.
- (4) This regulation shall not apply to microenterprises and small enterprises.
- (5) This regulation shall apply to medium-sized enterprises from such date as the Minister may by Notice in the Gazette appoint, which shall be no later than 19 July 2030.
- (6) At the request of the competent authority, economic operators shall provide all information and documentation necessary to demonstrate the delivery and reception of the discarded products as disclosed under subregulation (1)(c), and, where relevant, the information necessary to demonstrate the applicability of a derogation under regulation 21(4). Such information shall be provided within 30 days of receipt of the request.

Prohibition on destruction of unsold consumer products.

21.(1) From a date to be appointed by the Minister by Notice in the Gazette, and no later than such date as is necessary to maintain alignment with the EU Regulation, the destruction of unsold consumer products listed in Schedule 5 shall be prohibited.

- (2) This regulation shall not apply to microenterprises and small enterprises.
- (3) This regulation shall apply to medium-sized enterprises from such date as the Minister may by Notice in the Gazette appoint, which shall be no later than 19 July 2030.
- (4) The Minister may by further regulations provide for derogations from the prohibition in subregulation (1) where destruction is appropriate for any of the following reasons—
 - (a) health, hygiene and safety reasons;

- (b) damage caused to products as a result of their handling, or detected after products have been returned, which cannot be repaired in a cost-effective manner;
- (c) unfitness of products for the purpose for which they are intended, taking into account applicable law and technical standards;
- (d) non-acceptance of products offered for donation;
- (e) unsuitability of products for preparing for reuse or for remanufacturing;
- (f) unsaleability of products due to infringement of intellectual property rights, including counterfeit products; or
- (g) destruction is the option with the least negative environmental impacts.

(5) Economic operators that are not subject to the prohibition in subregulation (1) shall not destroy unsold consumer products supplied to them with the purpose of circumventing that prohibition.

(6) The Minister may by further regulations amend Schedule 5 to add new products or update entries in order to—

- (a) take account of the environmental impacts of the destruction of certain unsold consumer products; and
- (b) align with any amendments to Annex VII of the EU Regulation.

PART 6

OBLIGATIONS OF ECONOMIC OPERATORS

Application of this Part to Gibraltar's non-manufacturing economy.

22.(1) Gibraltar does not have a manufacturing base. Products placed on the market in Gibraltar are imported from outside the territory. This Part shall be read and applied accordingly.

(2) The primary responsibility for ensuring that products placed on the market in Gibraltar comply with the requirements of these Regulations and ecodesign requirements regulations shall rest with importers, who shall act as the principal gatekeepers for product compliance in Gibraltar.

(3) Distributors and dealers shall bear secondary responsibility for verifying compliance before making products available on the market or displaying them to customers.

(4) The obligations imposed on manufacturers by regulation 23 shall, within Gibraltar, apply in practice to—

- (a) persons who are deemed to be manufacturers by virtue of regulation 30; and
- (b) manufacturers established outside Gibraltar, in so far as those obligations may be enforced through the cooperation mechanisms in regulation 63 or through conditions imposed on importers.

(5) Nothing in this regulation shall relieve a manufacturer established outside Gibraltar of any obligation imposed on that manufacturer by these Regulations or ecodesign requirements regulations, but importers shall not place a product on the market in Gibraltar unless they are satisfied, on reasonable inquiry, that the manufacturer has fulfilled the obligations applicable to it under regulation 23.

Obligations of manufacturers.

23.(1) This regulation applies to manufacturers and, within Gibraltar, to persons deemed to be manufacturers by virtue of regulation 30. In the case of products imported into Gibraltar, the obligations in this regulation shall be treated as having been discharged in respect of a particular product where the importer has verified, in accordance with regulation 25, that the manufacturer has fulfilled them.

(2) When placing products covered by ecodesign requirements regulations on the market or putting them into service, manufacturers shall ensure that—

- (a) those products have been designed and manufactured in accordance with the applicable performance requirements;
- (b) those products are accompanied by the information required under the applicable ecodesign requirements regulations; and
- (c) a digital product passport is available where required, including a back-up copy stored by a digital product passport service provider.

(3) Before placing a product on the market or putting it into service, manufacturers shall carry out or have carried out on their behalf the conformity assessment procedure specified in the applicable ecodesign requirements regulations, draw up the required technical documentation, draw up an EU declaration of conformity in accordance with regulation 40, and affix the CE marking in accordance with regulation 42.

(4) Manufacturers shall keep the technical documentation and the EU declaration of conformity for ten years after the product has been placed on the market or put into service, unless a different period has been specified in the applicable ecodesign requirements regulations.

(5) Manufacturers shall ensure that products which are part of a series production remain in conformity with the applicable requirements, taking adequate account of changes in the production process, product design, characteristics, recognised standards or specifications.

(6) Manufacturers shall ensure that their products bear a type, batch or serial number or other element allowing their identification, or, where the size or nature of the product does not so allow, that the required information is provided on the packaging or in a document accompanying the product.

(7) Manufacturers shall indicate their name, registered trade name or registered trade mark, and their postal and electronic contact details on the public part of the digital product passport (where applicable) and on the product or, where that is not possible, on its packaging or in a document accompanying the product.

(8) Manufacturers shall ensure that a product covered by ecodesign requirements regulations is accompanied by digital instructions in English which are clear, understandable and legible, and shall provide in paper form, in a concise format, safety information and instructions relevant for the health and safety of customers. Where the customer so requests at the time of purchase or up to six months after that purchase, the manufacturer shall provide the digital instructions in paper format, free of charge, within one month of receiving the request.

(9) Where a manufacturer considers or has reason to believe that a product it has placed on the market or put into service is not in conformity with the applicable requirements, it shall without undue delay take the necessary corrective action to bring that product into conformity, or immediately withdraw or recall it, and shall immediately inform the market surveillance authority of any suspected non-compliance and of any corrective action taken.

(10) Manufacturers shall make publicly available communication channels to allow customers to submit complaints or concerns regarding potential non-conformity, and shall keep a register of complaints for no longer than five years after submission.

(11) Manufacturers shall, further to a reasoned request from the competent authority, provide all information and documentation necessary to demonstrate the conformity of products, including technical documentation, as soon as possible and in any event within fifteen days of receipt of the request.

Authorised representatives.

24.(1) A manufacturer may, by a written mandate, appoint an authorised representative.

(2) The obligations laid down in regulation 23(2) and the drawing up of technical documentation shall not form part of the authorised representative's mandate.

(3) An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following—

- (a) keep the EU declaration of conformity and technical documentation at the disposal of the market surveillance authority for the period specified in the applicable ecodesign requirements regulations;
- (b) cooperate with the competent authority on any measures taken with regard to non-compliance;
- (c) provide all the information and documentation necessary to demonstrate the conformity of a product within fifteen days of receipt of a reasoned request; and
- (d) terminate the mandate if the manufacturer acts contrary to its obligations under these Regulations.

Obligations of importers — principal gatekeepers for product compliance.

25.(1) Importers are the principal gatekeepers for product compliance in Gibraltar. Products placed on the market in Gibraltar are imported from outside the territory and importers shall bear primary responsibility for ensuring that those products comply with the requirements of these Regulations and ecodesign requirements regulations before they are placed on the market.

(2) Importers shall only place on the market products covered by ecodesign requirements regulations that comply with the applicable requirements.

(3) Before placing a product on the market, importers shall carry out reasonable inquiries to verify and ensure that—

- (a) the manufacturer has carried out the appropriate conformity assessment procedure and drawn up the technical documentation;
- (b) the product is accompanied by the information required under the applicable ecodesign requirements regulations;
- (c) a digital product passport is available where required;

- (d) the product bears the required CE marking and is accompanied by an EU declaration of conformity and any other required documents;
 - (e) the manufacturer has complied with the identification and labelling requirements of regulation 23(6) and (7); and
 - (f) the product is accompanied by digital instructions in English and paper safety information in accordance with regulation 23(8).
- (4) Where an importer considers or has reason to believe that a product is not in conformity, the importer shall not place the product on the market until it has been brought into conformity, and shall immediately inform the market surveillance authority if the product has already been placed on the market.
- (5) Importers shall indicate their name, registered trade name or registered trade mark, and postal and electronic contact details on the public part of the digital product passport (where applicable) and on the product or, where that is not possible, on the packaging or in a document accompanying the product.
- (6) Importers shall ensure that, while a product is under their responsibility, storage or transport conditions do not jeopardise its compliance with the applicable requirements.
- (7) Where an importer considers or has reason to believe that a product it has placed on the market is not in conformity, the importer shall without undue delay take the necessary corrective action to bring it into conformity, or immediately withdraw or recall it, and shall immediately inform the market surveillance authority of the non-compliance and any corrective action taken.
- (8) Importers shall keep a copy of the EU declaration of conformity at the disposal of the market surveillance authority and ensure that the technical documentation can be made available upon request for the applicable retention period.
- (9) Importers shall cooperate with the competent authority regarding any corrective action and shall provide all information and documentation upon a reasoned request within fifteen days.
- (10) Where a manufacturer established outside Gibraltar fails to fulfil its obligations under regulation 23 or to cooperate with the market surveillance authority, the importer that placed the relevant product on the market shall be jointly and severally liable for any non-compliance of the product with the applicable requirements, unless the importer can demonstrate that it carried out the reasonable inquiries required by subregulation (3) and could not reasonably have been aware of the non-compliance.

Obligations of distributors — secondary compliance responsibility.

26.(1) Distributors bear secondary responsibility for product compliance in Gibraltar. When making a product covered by ecodesign requirements regulations available on the market, distributors shall act with due care in relation to the applicable requirements.

(2) Before making a product available on the market, distributors shall verify that—

- (a) the product bears the CE marking and, where relevant, is labelled or linked to a digital product passport;
- (b) the product is accompanied by the required documents and digital instructions in English;
- (c) the manufacturer and the importer have complied with their identification requirements; and
- (d) the importer has indicated its name and contact details in accordance with regulation 25(5).

(3) Where a distributor considers or has reason to believe that a product is not in conformity, the distributor shall not make the product available on the market until it has been brought into conformity, and shall immediately notify the importer and the market surveillance authority.

(4) Where a distributor considers or has reason to believe that a product which it has already made available on the market is not in conformity, the distributor shall ensure that the necessary corrective action is taken to bring the product into conformity, or that it is withdrawn or recalled, and shall immediately inform the market surveillance authority.

(5) Distributors shall cooperate with the competent authority and provide all information and documentation within fifteen days of receipt of a reasoned request.

Obligations of dealers.

27.(1) Dealers shall ensure that their customers and potential customers have access to any relevant information accompanying products, as required by the applicable ecodesign requirements regulations, including in the event of distance selling.

(2) Dealers shall ensure that the digital product passport is easily accessible for customers and potential customers, including in the event of distance selling.

(3) Dealers shall, including in the event of distance selling—

- (a) display to customers and potential customers, in a visible manner, the labels provided in accordance with ecodesign requirements regulations;
- (b) make reference to the information included on such labels in visual advertisements or technical promotional material; and
- (c) not provide or display other labels, marks, symbols or inscriptions that are likely to mislead or confuse customers with regard to ecodesign labels.

Obligations related to labels.

28.(1) Where ecodesign requirements regulations require products to have a label, the economic operators placing the products on the market or putting them into service shall—

- (a) ensure that products are accompanied, for each individual unit and free of charge, by printed labels;
- (b) provide printed labels or digital copies to the dealer free of charge, promptly and in any event within five working days of the dealer's request; and
- (c) ensure that their labels are accurate.

(2) Economic operators making products available or putting them into service shall—

- (a) make reference to the information included on labels in visual advertisements or technical promotional material; and
- (b) not provide or display other labels, marks, symbols or inscriptions that are likely to mislead or confuse customers.

Obligations of fulfilment service providers.

29. Fulfilment service providers shall ensure that, for products that they handle that are covered by ecodesign requirements regulations, the conditions during warehousing, packaging, addressing or dispatching do not jeopardise the products' compliance with the applicable requirements.

Deemed manufacturers.

30. An importer or distributor shall be considered a manufacturer for the purposes of these Regulations where they—

- (a) place a product covered by ecodesign requirements regulations on the market under their name or trademark; or
- (b) modify such a product already placed on the market in a way that affects compliance with the applicable requirements.

Obligations of providers of online marketplaces.

31.(1) Providers of online marketplaces shall cooperate with the market surveillance authority, at the request of that authority and in specific cases, to facilitate any action taken to eliminate or mitigate the non-compliance of a product that is or was offered for sale online through their services.

(2) The market surveillance authority shall have the power to order a provider of an online marketplace to act against one or more specific items of content referring to a non-compliant product, including by removing such content.

(3) Providers of online marketplaces shall establish a single contact point for the purposes of direct communication with the market surveillance authority in relation to compliance with these Regulations.

Information obligations of economic operators.

32.(1) When making a product covered by ecodesign requirements regulations available on the market through distance selling, economic operators shall ensure that the product offer clearly and visually provides at least the following information—

- (a) the name, registered trade name or registered trade mark of the manufacturer, and the postal and electronic address where the manufacturer can be contacted;
- (b) in the event that the manufacturer is not established in Gibraltar, the name, postal and electronic address and telephone number of the economic operator responsible for compliance in Gibraltar or the European Union; and
- (c) information allowing the identification of the product, including a picture, its type and any other product identifier.

(2) Economic operators shall, upon a reasoned request, provide the market surveillance authority with the name of any economic operator that has supplied them with a relevant product, and the name of any economic operator to whom they have supplied such products, together with the quantities and exact models concerned. Economic operators shall ensure that they are able to provide such information for ten years, unless a different period is specified.

Supply chain obligations.

33. Where specified in ecodesign requirements regulations, supply chain actors shall—

- (a) provide, upon request and free of charge, manufacturers, notified bodies and the competent authority with available relevant information related to the products they supply or the services they provide;
- (b) allow, in the absence of such information, manufacturers to assess the products they supply or the services they provide and give access to relevant documents or facilities; and
- (c) enable notified bodies and the competent authority to verify the accuracy of relevant information related to their activities.

**PART 7
CONFORMITY OF PRODUCTS**

Test, measurement and calculation methods.

34.(1) For the purposes of compliance and verification of compliance with ecodesign requirements, tests, measurements and calculations shall be carried out using recognised standards or other reliable, accurate and reproducible methods that take into account the generally recognised state-of-the-art methods, as specified in the applicable ecodesign requirements regulations.

(2) Digital tools required by ecodesign requirements regulations for the calculation of product performance shall be freely accessible for economic operators.

Prevention of circumvention and worsening of performance.

35.(1) Economic operators shall not engage in any behaviour that undermines the compliance of products with these Regulations, regardless of whether that behaviour is of a contractual, commercial, technical or other nature.

(2) Products falling within the scope of ecodesign requirements regulations shall not be placed on the market or put into service if they are designed to alter their behaviour or properties when they are tested in order to reach a more favourable result for any regulated product parameter.

(3) For the purposes of subregulation (2), products designed to detect that they are being tested and which automatically alter their performance in response, and products pre-set to

alter their performance at the time of testing, shall be considered to be products designed to alter their behaviour or properties when tested.

(4) Economic operators shall not prescribe instructions specific to testing that alter the behaviour or properties of a product in order to reach a more favourable result for any regulated product parameter.

(5) Products shall not be placed on the market or put into service if they are designed to alter their behaviour or properties within a short period after being put into service, leading to a worsening of their performance in relation to any regulated product parameter or their functional performance from the perspective of the user.

(6) Software or firmware updates shall not lead to the worsening of product performance beyond acceptable margins specified in ecodesign requirements regulations, unless the customer explicitly consents prior to the update. No change shall occur as a result of rejecting the update.

(7) Software or firmware updates shall in no circumstances lead to the worsening of product performance to the extent that the product becomes non-compliant with the requirements applicable at the time of placing on the market or putting into service.

Presumption of conformity.

36.(1) Tests, measurement or calculation methods which are in conformity with recognised standards shall be presumed to be in conformity with the requirements of regulation 34 and with test, measurement and calculation requirements set out in ecodesign requirements regulations, to the extent that those requirements are covered by such standards.

(2) Digital product passports which are in conformity with recognised standards shall be presumed to be in conformity with the requirements of regulations 13 and 14, to the extent that those requirements are covered by such standards.

(3) Products which are in conformity with recognised standards shall be presumed to be in conformity with ecodesign requirements set out in ecodesign requirements regulations, to the extent that those requirements are covered by such standards.

(4) Products which have been awarded the EU Ecolabel shall be presumed to comply with the ecodesign requirements to the extent that those requirements are covered by the EU Ecolabel criteria.

Common specifications.

37.(1) Where the Minister considers it necessary for the purposes of ensuring compliance with ecodesign requirements, and no adequate recognised standards exist, the Minister may by regulations adopt common specifications covering ecodesign requirements, essential requirements for digital product passports, or test, measurement or calculation methods.

(2) Products which are in conformity with common specifications adopted under this regulation shall be presumed to be in conformity with the applicable ecodesign requirements to the extent that those requirements are covered by those common specifications.

Conformity assessment.

38.(1) When ecodesign requirements regulations specify the applicable conformity assessment procedure, the Minister shall have regard to—

- (a) whether the module concerned is appropriate to the type of product and the relevant ecodesign requirements, and proportionate to the public interest pursued;
- (b) the nature of the risks entailed by the product and the extent to which the conformity assessment corresponds to the nature and degree of those risks; and
- (c) where third-party involvement is mandatory, the need for the manufacturer to have a choice between quality assurance and product certification modules.

(2) Where the applicable conformity assessment module is Module A (internal production control) as set out in Schedule 6, the manufacturer shall comply with the requirements of that Schedule.

(3) Records and correspondence relating to the conformity assessment shall be drawn up in English.

Recognition of conformity assessment results.

39.(1) The Minister may by further regulations make provision for the recognition in Gibraltar of conformity assessment results and certificates issued by—

- (a) notified bodies designated by EU Member States under the EU Regulation;
- (b) conformity assessment bodies accredited or approved in the United Kingdom; or
- (c) bodies operating under equivalent arrangements in other jurisdictions,

where the Minister is satisfied that the standards applied by those bodies are equivalent to those required under these Regulations.

(2) Any such regulations may make provision for the conditions, limitations and procedures applicable to such recognition.

EU declaration of conformity.

40.(1) The EU declaration of conformity shall state that the fulfilment of the applicable ecodesign requirements has been demonstrated or that a presumption of conformity applies.

(2) The EU declaration of conformity shall have the model structure set out in Schedule 7, shall contain the elements specified in the applicable conformity assessment procedure, and shall be in English.

(3) Where a product is subject to more than one legal requirement mandating an EU declaration of conformity, a single EU declaration of conformity may be drawn up in respect of all such requirements.

(4) By drawing up the EU declaration of conformity, the manufacturer shall assume responsibility for the compliance of the product.

General principles of the CE marking.

41. The CE marking shall be subject to the general principles set out in Article 30 of Regulation (EC) No 765/2008, as applied in Gibraltar.

Rules and conditions for affixing the CE marking.

42.(1) The CE marking shall be affixed visibly, legibly and indelibly to the product. Where that is not possible or not warranted on account of the nature of the product, it shall be affixed to the packaging and to the accompanying documents.

(2) The CE marking shall be affixed before the product is placed on the market or put into service.

(3) For a product in the production control phase in which a notified body participates, the CE marking shall be followed by the identification number of that notified body.

(4) The CE marking and, where applicable, the identification number of the notified body may be followed by a pictogram or other marking indicating a special risk or use.

(5) The competent authority shall build upon existing mechanisms to ensure correct application of the CE marking regime and shall take appropriate action in the event of improper use.

PART 8 INCENTIVES

Incentives.

43.(1) Where the Government provides incentives for products covered by ecodesign requirements regulations, those incentives shall be aimed at the highest two populated classes of performance or, where relevant, at products with an EU Ecolabel.

(2) For energy-related products covered by ecodesign requirements regulations which are also subject to energy labelling requirements, any incentives shall be consistent with the applicable energy labelling framework.

Green public procurement.

44.(1) Contracting authorities shall, in awarding public contracts for the purchase of products covered by ecodesign requirements regulations, or for works or services where those products are used, comply with the minimum green public procurement requirements set out in regulations made under subregulation (2).

(2) The Minister may make regulations setting minimum green public procurement requirements in relation to products covered by ecodesign requirements regulations. Such regulations may prescribe minimum requirements in the form of—

- (a) technical specifications;
 - (b) award criteria;
 - (c) contract performance conditions; or
 - (d) targets.
- (3) When making regulations under subregulation (2), the Minister shall have regard to—
- (a) the value and volume of public contracts awarded for the relevant product groups;
 - (b) the economic feasibility for contracting authorities of purchasing more environmentally sustainable products without entailing disproportionate costs; and
 - (c) the two highest performance classes or best possible performance levels set out in the applicable ecodesign requirements regulations.

(4) Award criteria prescribed under subregulation (2)(b) shall, where appropriate, have a minimum weighting of between fifteen per cent and thirty per cent in the awarding process.

(5) Targets prescribed under subregulation (2)(d) shall require, on an annual or multiannual basis, a minimum percentage of fifty per cent of procurement conducted at the level of contracting authorities, or at an aggregated level, of the most environmentally sustainable products.

(6) In this regulation, "contracting authority" means a contracting authority within the meaning of the Procurement (Public Sector Contracts) Regulations 2016 as amended from time to time.

PART 9

SELF-REGULATION MEASURES

Recognition of self-regulation measures.

45.(1) Economic operators may submit to the Minister a self-regulation measure setting ecodesign requirements for products not falling within the scope of existing ecodesign requirements regulations.

(2) A self-regulation measure shall meet the criteria set out in Schedule 8 and shall be consistent with applicable law and international trade commitments.

(3) The Minister may assess any such measure and may by notice in the Gibraltar Gazette publish, and remove from, a list of recognised self-regulation measures.

PART 10

NOTIFICATION OF CONFORMITY ASSESSMENT BODIES

Notifying authority.

46.(1) Given that Gibraltar does not have a manufacturing base and is unlikely to require locally established conformity assessment bodies, the Minister may, rather than establishing a separate notifying authority, enter into arrangements with the European Commission, EU Member State notifying authorities, or United Kingdom authorities for the purposes of this Part.

(2) Where the Minister considers it necessary or appropriate, the Minister shall designate a notifying authority responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies.

(3) The notifying authority shall be established in such a way that no conflict of interest with conformity assessment bodies occurs.

(4) The notifying authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities.

(5) A decision relating to notification of a conformity assessment body shall be taken by competent persons different from those who carried out the assessment.

(6) The notifying authority shall have a sufficient number of competent personnel and sufficient funding at its disposal for the proper performance of its tasks.

Requirements relating to notified bodies.

47.(1) This regulation applies only where the Minister has designated a notifying authority under regulation 46(2).

(2) Where this regulation applies, a conformity assessment body established in Gibraltar shall not be notified unless it meets the requirements applicable to notified bodies under the EU Regulation, including as to legal personality, third-party independence, the absence of conflicting business ties, the availability of personnel with the necessary technical competence and experience, professional integrity, liability insurance (unless liability is assumed by the Government), professional secrecy, and participation in relevant standardisation activities.

(3) The Minister may by further regulations make additional or supplementary provision regarding the requirements for conformity assessment bodies.

Notification procedure.

48.(1) The notifying authority may only notify conformity assessment bodies which have satisfied the requirements of regulation 47.

(2) The notifying authority shall notify the Minister and, where appropriate, the other relevant authorities of notified bodies.

(3) The notification shall include full details of the conformity assessment activities, modules and products concerned.

(4) The Minister may by regulations make provision for the recognition in Gibraltar of notified bodies designated by EU Member States, and for the coordination of conformity assessment activities with EU-designated notified bodies.

Changes to notifications.

49.(1) Where the notifying authority has ascertained or has been informed that a notified body no longer meets the requirements of regulation 47, or that it is failing to fulfil its obligations, the notifying authority shall restrict, suspend or withdraw the notification as appropriate.

(2) In the event of a restriction, suspension or withdrawal of a notification, or where the notified body has ceased its activity, the notifying authority shall take appropriate steps to ensure that the body's files are either processed by another notified body or kept available for the competent authority.

Operational obligations of notified bodies.

50.(1) Notified bodies shall carry out conformity assessments in accordance with the procedures specified in the applicable ecodesign requirements regulations.

(2) Conformity assessments shall be carried out in a proportionate manner, avoiding unnecessary burdens for economic operators.

(3) Where a notified body finds that a manufacturer does not meet the relevant requirements, it shall require corrective measures or, where deficiencies cannot be remedied, shall not issue a certificate or approval decision.

(4) Where a notified body finds that a product or manufacturer does not comply or no longer complies, it shall require corrective measures and may suspend or withdraw a certificate or approval decision.

PART 11
MARKET SURVEILLANCE

Designation of market surveillance authority.

51.(1) The Minister shall by Notice in the Gazette designate an authority as the market surveillance authority for the purposes of these Regulations.

(2) The market surveillance authority shall be responsible for carrying out market surveillance activities to ensure compliance with these Regulations and ecodesign requirements regulations.

(3) The Minister may by further regulations confer on the market surveillance authority such powers as the Minister considers necessary or expedient for the purposes of effective market surveillance, including powers to—

- (a) require economic operators to provide information and documentation;

- (b) enter premises, carry out inspections and take samples of products;
- (c) carry out or commission physical and laboratory tests;
- (d) require economic operators to take corrective action;
- (e) prohibit, restrict or attach conditions to the placing on the market or making available on the market of non-compliant products;
- (f) withdraw or recall non-compliant products;
- (g) order the removal of content from online marketplaces referring to non-compliant products;
- (h) impose penalties in accordance with Part 13; and
- (i) recover the costs of document inspection and physical product testing from the economic operator responsible in the event of non-compliance.

Planned market surveillance activities.

52.(1) The market surveillance authority shall prepare and publish a market surveillance strategy, which shall include a section on the market surveillance activities planned in relation to these Regulations and ecodesign requirements regulations.

(2) That section shall include at least—

- (a) the products or requirements identified as priorities for market surveillance; and
- (b) the market surveillance activities planned in order to reduce or bring non-compliance to an end.

(3) The priorities for market surveillance shall be identified on the basis of objective criteria, including—

- (a) the levels of non-compliance observed in the market;
- (b) the environmental impacts of non-compliance;
- (c) the number of complaints received from end users or consumer organisations, or other information received from economic operators or the media;

(d) the number of relevant products made available on the market; and

(e) the number of relevant economic operators active on the market.

(4) For product categories identified as representing a high risk of non-compliance, the planned checks shall include, where appropriate, physical and laboratory checks based on adequate samples.

Reporting.

53. The market surveillance authority shall enter into the appropriate information and communication systems information on the nature and severity of any penalty imposed in relation to non-compliance with these Regulations.

PART 12
SAFEGUARD PROCEDURES

Products presenting a risk.

54.(1) Where the market surveillance authority has sufficient reason to believe that a product covered by ecodesign requirements regulations presents a risk, it shall carry out an evaluation covering all requirements relevant to the risk.

(2) Where the market surveillance authority finds that the product does not comply with the applicable requirements, it shall without delay require the relevant economic operator to take appropriate and proportionate corrective action within a reasonable period.

(3) Where the relevant economic operator does not take corrective action within the prescribed period, or the non-compliance persists, the market surveillance authority shall take all appropriate provisional measures to prohibit or restrict the making available of the product on the market, to withdraw it or to recall it.

(4) The market surveillance authority shall inform the Minister and other relevant authorities, without delay, of any measures taken under subregulation (3).

Formal non-compliance.

55.(1) Where the market surveillance authority finds any of the following, it shall require the relevant economic operator to bring the non-compliance to an end—

(a) the CE marking has been affixed improperly or has not been affixed;

- (b) the identification number of a notified body has been affixed improperly or has not been affixed where required;
 - (c) the EU declaration of conformity has not been drawn up or has not been drawn up correctly;
 - (d) the technical documentation is not available, not complete or contains errors;
 - (e) the identification information required under regulations 23(7) or 25(5) is absent, false or incomplete; or
 - (f) any other administrative requirement is not fulfilled.
- (2) Where the non-compliance referred to in subregulation (1) persists, the market surveillance authority shall take all appropriate measures to restrict or prohibit the product being made available on the market or ensure that it is recalled or withdrawn.

PART 13 PENALTIES

Penalties.

56.(1) A person who contravenes a provision of these Regulations or of ecodesign requirements regulations made under these Regulations commits an offence and shall be liable—

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale; and
 - (b) on conviction on indictment, to a fine.
- (2) In determining the level of penalty to be imposed, the court shall have due regard to the following, as applicable—
- (a) the nature, gravity and duration of the infringement;
 - (b) whether the infringement was intentional or negligent;
 - (c) the financial situation of the person held responsible;
 - (d) the economic benefits derived from the infringement, in so far as they can be determined;
 - (e) the environmental damage caused by the infringement;

- (f) any action taken by the person held responsible to mitigate or remedy the damage caused;
- (g) whether the infringement is a repeated or singular occurrence; and
- (h) any other aggravating or mitigating factor applicable to the circumstances of the case.

(3) In addition to or in lieu of any fine, the court may make one or more of the following orders—

- (a) an order requiring the person to take specified corrective action within a specified period;
- (b) an order for the withdrawal or recall of the non-compliant product;
- (c) an order for forfeiture and destruction of the non-compliant product; or
- (d) an order for the recovery of costs incurred by the market surveillance authority in connection with its investigation.

Exclusion from public procurement.

57.(1) A person convicted of an offence under regulation 56 may, in addition to any penalty imposed by the court, be excluded from participating in public procurement procedures for a period not exceeding three years.

(2) The Minister may by further regulations make provision as to the circumstances in which and the procedure by which such exclusion may be imposed.

Fixed penalty notices.

58.(1) The market surveillance authority may, as an alternative to prosecution, issue a fixed penalty notice to any person whom it has reason to believe has committed an offence under regulation 56.

(2) The Minister may by regulations make provision as to—

- (a) the form and content of fixed penalty notices;
- (b) the amount of fixed penalties, which shall not exceed such maximum amount as may be prescribed;

- (c) the period within which a fixed penalty must be paid;
- (d) the consequences of non-payment; and
- (e) such other matters as the Minister considers necessary.

PART 14 CONSUMER REDRESS

Consumer redress.

59.(1) In the event of non-compliance of a product with ecodesign requirements set in ecodesign requirements regulations, the following economic operators shall be liable for damage suffered by the consumer—

- (a) the manufacturer; or
- (b) in the event that the manufacturer is not established in Gibraltar, and without prejudice to the manufacturer's own liability, the importer or the authorised representative of the manufacturer; or
- (c) in the event that neither the importer nor the authorised representative is established in Gibraltar, the fulfilment service provider.

(2) The liability of those economic operators for damage shall be without prejudice to the application of other remedies available to consumers under any other enactment or rule of law.

PART 15 SUPPORT FOR SMEs

Support for small and medium-sized enterprises.

60.(1) The Government shall take appropriate measures to help SMEs, and in particular microenterprises, comply with the ecodesign requirements set out in ecodesign requirements regulations.

(2) Those measures shall at least include ensuring the availability of one-stop shops or similar mechanisms to raise awareness of ecodesign requirements and create networking opportunities for SMEs, and in particular microenterprises, to adapt to such requirements.

(3) Without prejudice to any applicable rules on state aid, such measures may also include—

- (a) financial support, including by providing fiscal advantages and investing in physical and digital infrastructure;
 - (b) access to finance;
 - (c) specialised management and staff training; and
 - (d) organisational and technical assistance.
- (4) The Minister shall consult organisations that represent SMEs on the kind of measures SMEs consider useful.

PART 16

GENERAL AND SUPPLEMENTARY PROVISIONS

Regulations.

61.(1) The Minister may make regulations for the purpose of giving full effect to these Regulations and to any obligations arising from the EU Regulation and delegated and implementing acts adopted thereunder.

(2) Without prejudice to the generality of subregulation (1), regulations under these Regulations may—

- (a) amend the Schedules to these Regulations;
- (b) create offences and prescribe penalties;
- (c) make provision for fees and charges;
- (d) make transitional, transitory and saving provision;
- (e) make different provision for different purposes or different areas; and
- (f) make consequential amendments to any other enactment.

(3) Without prejudice to the direct application of delegated and implementing acts by virtue of regulation 6, regulations may be made so as to adapt, supplement or give further effect to such acts, subject to such modifications as the Minister considers necessary for application in Gibraltar.

Application and alignment.

62.(1) Delegated and implementing acts adopted under the EU Regulation shall apply in Gibraltar in accordance with regulation 6. The Minister shall keep under review the operation and application in Gibraltar of such acts and shall take such steps as are necessary to ensure their effective implementation.

(2) Where a new delegated or implementing act is adopted under the EU Regulation, or an existing act is amended, the Minister shall, where necessary, make or amend regulations under regulation 6 for the purpose of adapting or supplementing the application of such act in Gibraltar.

Cooperation with EU and UK authorities.

63.(1) The competent authority and the market surveillance authority shall cooperate with any relevant bodies or authorities for the purposes of—

- (a) exchanging information relevant to the enforcement of ecodesign requirements;
- (b) coordinating market surveillance activities;
- (c) facilitating the recognition of conformity assessment results; and
- (d) participating in joint activities.

(2) Information received pursuant to subregulation (1) shall be treated with due regard to confidentiality.

Review.

64.(1) The Minister shall, within five years of the commencement of these Regulations and at least every five years thereafter, carry out a review of the operation and effectiveness of these Regulations.

(2) In carrying out such review, the Minister shall have regard to—

- (a) the evaluations carried out by the European Commission under the EU Regulation;
- (b) the state of alignment between these Regulations and the EU Regulation;
- (c) the impact of these Regulations on the environmental sustainability and circularity of products available in Gibraltar;
- (d) the administrative burden on economic operators, particularly SMEs; and

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- (e) the effectiveness of market surveillance and enforcement.
- (3) The Minister shall publish a report setting out the conclusions of each review.

SCHEDULE 1
Product Parameters

Regulation 8

The following parameters shall, as appropriate, and where necessary supplemented by others, be used, individually or in combination, as a basis for improving the product aspects:

- (a) durability and reliability of the product or its components as expressed through the product's guaranteed lifetime, technical lifetime, mean time between failures, indication of real use information, resistance to stresses or ageing mechanisms;
- (b) ease of repair and maintenance, as expressed through characteristics, availability, delivery time and affordability of spare parts, modularity, compatibility with commonly available tools and spare parts, availability of repair and maintenance instructions, number of materials and components used, use of standard components, ease of non-destructive disassembly and re-assembly, conditions for access to product data, conditions for access to or use of hardware and software needed;
- (c) ease of upgrading, reuse, remanufacturing and refurbishment as expressed through number of materials and components used, use of standard components, number and complexity of processes and tools needed, ease of non-destructive disassembly and re-assembly, conditions for access to product data, availability of guarantees specific to remanufactured or refurbished products, modularity;
- (d) design for recycling, ease and quality of recycling as expressed through use of easily recyclable materials, safe, easy and non-destructive access to recyclable components and materials, material composition and homogeneity, possibility for high-purity sorting, number of materials and components used, ease of non-destructive disassembly and re-assembly;
- (e) avoidance of technical solutions detrimental to reuse, upgrading, repair, maintenance, refurbishment, remanufacturing and recycling of products and components;
- (f) use of substances, and in particular the use of substances of concern, on their own, as constituents of substances or in mixtures, during the production process of products, or leading to their presence in products, including once those products become waste, and their impacts on human health and the environment;
- (g) use or consumption of energy, water and other resources in one or more life cycle stages of the product, including the effect of physical factors or software and firmware updates on product efficiency and including the impact on deforestation;

- (h) use or content of recycled materials and recovery of materials, including critical raw materials;
- (i) use or content of sustainable renewable materials;
- (j) weight and volume of the product and its packaging, and the product-to-packaging ratio;
- (k) incorporation of used components;
- (l) quantity, characteristics and availability of consumables needed for proper use and maintenance;
- (m) the environmental footprint of the product;
- (n) the carbon footprint of the product;
- (o) the material footprint of the product;
- (p) microplastic and nanoplastic release;
- (q) emissions to air, water or soil released in one or more life cycle stages of the product;
- (r) amounts of waste generated, including plastic waste and packaging waste and their ease of reuse, and amounts of hazardous waste generated;
- (s) functional performance and conditions for use; and
- (t) lightweight design.

SCHEDULE 2

Hazard Classes and Categories for Substances of Concern

Regulation 3

The following hazard classes and categories apply for the purposes of the definition of "substance of concern" in regulation 3(1):

- (a) carcinogenicity categories 1 and 2;
- (b) germ cell mutagenicity categories 1 and 2;
- (c) reproductive toxicity categories 1 and 2;
- (d) endocrine disruption for human health categories 1 and 2;
- (e) endocrine disruption for the environment categories 1 and 2;
- (f) persistent, mobile and toxic or very persistent, very mobile properties;
- (g) persistent, bioaccumulative and toxic or very persistent, very bioaccumulative properties;
- (h) respiratory sensitisation category 1;
- (i) skin sensitisation category 1;
- (j) hazardous to the aquatic environment — categories chronic 1 to 4;
- (k) hazardous to the ozone layer;
- (l) specific target organ toxicity — repeated exposure categories 1 and 2; and
- (m) specific target organ toxicity — single exposure categories 1 and 2.

SCHEDULE 3

Procedure for Defining Performance Requirements

Regulation 10

Product-specific or horizontal performance requirements shall be set as follows:

A technical, environmental and economic analysis shall select a number of representative models of the product or products in question on the market and identify the technical options for improving the product performance in relation to the product parameters referred to in Schedule 1, taking into account the economic viability of the options and avoiding any significant increase of other life cycle environmental impacts, and significant loss of performance or usefulness for consumers.

The analysis shall identify, for the parameter under consideration, the best-performing products and technologies available on the market, as well as emerging technology improvements. The performance of products available on international markets and benchmarks set in other countries' law shall be taken into consideration.

Based on the analysis, and taking into account economic and technical feasibility, including the availability of key resources and technologies, as well as the potential for improvement, levels or non-quantitative requirements shall be defined.

Any concentration limit for substances shall be based on a thorough analysis of the sustainability of the substances and their identified alternatives, and shall not have significant adverse effects on human health or the environment.

A sensitivity analysis covering the relevant factors, such as the price of energy or other resources, the cost of raw materials and necessary technologies, production costs, discount rates, and, where appropriate, external environmental costs, including avoided greenhouse gas emissions, shall be carried out.

SCHEDULE 4

Standards for Digital Product Passport

Regulation 13

The data carrier, the unique product identifier, the unique operator identifiers and the unique facility identifiers shall, where relevant, comply with standards ISO/IEC 15459-1:2014, ISO/IEC 15459-2:2015, ISO/IEC 15459-3:2014, ISO/IEC 15459-4:2014, ISO/IEC 15459-5:2014 and ISO/IEC 15459-6:2014, or such successor or equivalent standards as the Minister may by Notice in the Gazette specify.

SCHEDULE 5

Consumer Products of Which the Destruction by Economic Operators Is Prohibited

Regulation 21

1. Apparel and clothing accessories

- (a) Articles of apparel and clothing accessories, of leather or composition leather;
- (b) Articles of apparel and clothing accessories, knitted or crocheted;
- (c) Articles of apparel and clothing accessories, not knitted or crocheted;
- (d) Hats and other headgear, plaited or made by assembling strips of any material, whether or not lined or trimmed;
- (e) Hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; hairnets of any material, whether or not lined or trimmed.

2. Footwear

- (a) Waterproof footwear with outer soles and uppers of rubber or of plastics;
- (b) Other footwear with outer soles and uppers of rubber or plastics;
- (c) Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather;
- (d) Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials;
- (e) Other footwear.

SCHEDULE 6**Internal Production Control (Module A)**

Regulation 38

1. Internal production control is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in paragraphs 2, 3 and 4 and ensures and declares on its sole responsibility that the product satisfies the requirements of the applicable ecodesign requirements regulations.
2. Technical documentation. The manufacturer shall establish the technical documentation. The documentation shall make it possible to assess the product's conformity to the applicable requirements. The technical documentation shall specify the applicable requirements and cover, as far as relevant, the design, manufacture and operation of the product. The technical documentation shall, wherever applicable, contain at least the following elements: a general description of the product and of its intended use; conceptual design and manufacturing drawings and schemes; descriptions and explanations necessary for the understanding of those drawings and the operation of the product; a list of the recognised standards applied; results of design calculations, examinations carried out and measurements made; test reports; and a copy of the information provided in accordance with the information requirements of ecodesign requirements regulations.
3. Manufacturing. The manufacturer shall take all measures necessary so that the manufacturing process and its monitoring ensure compliance of the product with the technical documentation and with the applicable requirements.
4. CE marking and EU declaration of conformity. The manufacturer shall affix the required conformity marking to each individual product that satisfies the applicable requirements. The manufacturer shall draw up a written declaration of conformity for each product model in accordance with regulation 38 and keep it, together with the technical documentation, at the disposal of the competent authority for ten years after the product has been placed on the market or put into service. The declaration of conformity shall identify the product for which it has been drawn up. A copy of the declaration of conformity shall be made available to the competent authority upon request.
5. Authorised representative. The manufacturer's obligations set out in paragraph 4 may be fulfilled by the authorised representative on the manufacturer's behalf, provided the obligations are specified in the mandate.

SCHEDULE 7

EU Declaration of Conformity

Regulation 40

The EU declaration of conformity shall contain the following elements:

1. Unique identification number of the product.
2. Name and address of the manufacturer and, where applicable, the manufacturer's authorised representative.
3. A statement that the declaration of conformity is issued under the sole responsibility of the manufacturer.
4. Object of the declaration (description of the product sufficient for its unambiguous identification and allowing traceability; it may, where necessary, include an image).
5. A statement that the object of the declaration is in conformity with these Regulations, the applicable ecodesign requirements regulations and, where applicable, other applicable legislation.
6. References to the relevant recognised standards or common specifications used, or references to other technical specifications in relation to which conformity is declared.
7. Where applicable, the notified body (name, number), description of intervention, and certificate or approval decision number.
8. Where appropriate, reference to other legislation providing for the affixing of the CE marking that is applied.
9. The identification and signature of the person empowered to bind the manufacturer or the manufacturer's authorised representative.
10. Additional information (if any).

Signed for and on behalf of: [place and date of issue]; [name, function]; [signature].

SCHEDULE 8**Criteria for Self-Regulation Measures**

Regulation 45

1. Openness of participation. Self-regulation measures must be open to the participation of any operators placing on the market a product covered by the measure, including SMEs and third-country operators.
2. Sustainability and added value. Self-regulation measures must respond to the policy objectives of these Regulations and must be consistent with economic and social dimensions of sustainable development.
3. Representativeness. Industry and its related associations taking part in a self-regulation measure must represent a large majority of the relevant economic sector.
4. Quantified and staged objectives. The objectives defined by the signatories must be set in clear, quantifiable and unambiguous terms, starting from a well-defined baseline. If the measure covers a long time-span, interim targets must be included.
5. Involvement of civil society. Self-regulation measures must be publicised online on a publicly and freely accessible website. Stakeholders, including industry, environmental organisations and consumer associations, shall be invited to comment.
6. Monitoring and reporting. An independent inspector must be selected to monitor compliance. Every year, each signatory must report all information necessary for the inspector to verify the signatory's compliance. The inspector must draw up a compliance report at the end of each reporting period.
7. Cost-effectiveness. The cost of administering the self-regulation measure must not lead to a disproportionate administrative burden, as compared to its objectives and to other available policy instruments.