

## **DECISION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY**

**D/2018/3/MC-EnC: adapting and implementing Regulation (EU) 2017/1369 of the European Parliament and of the Council setting a framework for energy labelling , and certain Delegated Regulations on energy-related products**

The Ministerial Council of the Energy Community,

Having regard to the Treaty establishing the Energy Community ('the Treaty'), and in particular Articles 24, 25, 79 and 81 thereof,

Having regard to Article 3(2)(f) of Ministerial Council Decision 2009/05/MC-EnC, as amended by Article 2 of Decision 2010/02/MC-EnC,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Ministerial Council, on 18 December 2009, adopted Decision 2009/05/MC-EnC incorporating, *inter alia*, Directive 92/75/EEC on the indication by labelling and standard product information of the consumption of energy and other resources by household appliances ('Directive 92/75/EEC'), as well as eight Implementing Directives, into the Energy Community *acquis*.

(2) The Ministerial Council on 24 September 2010 adopted Decision No 2010/02/MC-EnC amending Decision 2009/05/MC-EnC on the implementation of certain Directives on Energy Efficiency, and incorporating, *inter alia*, Directive 2010/30/EU of the European Parliament and of the Council on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products, recasting and repealing Directive 92/75/EEC.

(3) The Ministerial Council adopted Decisions on 6 October 2011 (Decision No 2011/03/MC-EnC) and on 23 September 2014 (Decision No 2014/02/MC-EnC) incorporating Delegated Regulations for labelling of specific energy-related products.

(4) Since then, six new Delegated Regulations were adopted in EU namely Commission Delegated Regulation (EU) No 518/2014 (internet energy labelling), (EU) No 1254/2014 (residential ventilation units), (EU) No 2015/1094 (professional refrigerated storage cabinets), (EU) No

2015/1186 (local space heaters), (EU) No 2015/1187 (solid fuel boilers and packages), and (EU) No 2017/254 (use of tolerances in verification procedures).

(5) Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU was published in the Official Journal of the European Union L 198/1 on 28 July 2017.

(6) The Permanent High Level Group, at its meeting on 26 March 2018, took note of the Secretariat's suggestion to adapt and adopt Regulation (EU) 2017/1369 and new EU Delegated Regulations, and invited the European Commission and the Secretariat to prepare and present a draft Ministerial Council Decision at the next meeting.

(7) The Permanent High Level Group at its meeting on 21 June 2018 invited the European Commission to formalise and submit proposals for adoption by the Ministerial Council in 2018,

HAS ADOPTED THE FOLLOWING DECISION:

### **Article 1**

#### **Adoption and implementation of the *acquis* on energy**

1. Each Contracting Party shall transpose and implement Regulation (EU) 2017/1369 of the European Parliament and of the Council setting a framework for energy labelling and repealing Directive 2010/30/EU ('Regulation 2017/1369').
2. Each Contracting Party shall transpose and implement the following Delegated Regulations:
  - (a) Commission Delegated Regulation (EU) No 518/2014 of 5 March 2014 amending Commission Delegated Regulations (EU) No 1059/2010, (EU) No 1060/2010, (EU) No 1061/2010, (EU) No 1062/2010, (EU) No 626/2011, (EU) No 392/2012, (EU) No 874/2012, (EU) No 665/2013, (EU) No 811/2013 and (EU) No 812/2013 with regard to labelling of energy-related products on the internet ('Delegated Regulation 518/2014');
  - (b) Commission Delegated Regulation (EU) No 1254/2014 of 11 July 2014 with regard to energy labelling of residential ventilation units ('Delegated Regulation 1254/2014');
  - (c) Commission Delegated Regulation (EU) 2015/1094 of 5 May 2015 with regard to the energy labelling of professional refrigerated storage cabinets ('Delegated Regulation 2015/1094');
  - (d) Commission Delegated Regulation (EU) 2015/1186 of 24 April 2015 with regard to the energy labelling of local space heaters ('Delegated Regulation 2015/1186');
  - (e) Commission Delegated Regulation (EU) No 2015/1187 of 27 April 2015 with regard to energy labelling of solid fuel boilers and packages of a solid fuel boiler, supplementary heaters, temperature controls and solar devices ('Delegated Regulation 2015/1187'); and
  - (f) Commission Delegated Regulation (EU) 2017/254 of 30 November 2016 amending Delegated Regulations (EU) No 1059/2010, (EU) No 1060/2010, (EU) No 1061/2010, (EU) No 1062/2010, (EU) No 626/2011, (EU) No 392/2012, (EU) No 874/2012, (EU) No 665/2013, (EU) No 811/2013, (EU) No 812/2013, (EU) No 65/2014, (EU) No 1254/2014,

(EU) 2015/1094, (EU) 2015/1186 and (EU) 2015/1187 with regard to the use of tolerances in verification procedures ('Delegated Regulation 2017/254').

3. Each Contracting Party shall bring into force the laws, regulations and administrative provisions necessary to comply with the Regulation and Delegated Regulations referred to in paragraphs 1 and 2, as adapted by the present Decision, by 1 January 2020. They shall notify the Secretariat of completed transposition within two weeks following the adoption of transposition measures for the respective Regulation and Delegated Regulations.

4. The Secretariat shall monitor and review the implementation of the Regulations referred to in paragraphs 1 and 2 in the Contracting Parties.

## **Article 2**

### **General adaptations under Article 24 of the Energy Community Treaty**

For the purpose of implementing Regulation (EU) 2017/1369 and all Delegated Regulations referred to in Article 1 within the institutional framework of the Treaty,

- (a) the term 'Member State(s)' shall read 'Contracting Party(ies)',
- (b) the term '(European) Union' shall read 'Energy Community',
- (c) the term 'Union market' shall read 'markets of the Contracting Parties',
- (d) the term 'Commission' shall read 'Secretariat',
- (e) references to the '*Official Journal of the European Union*' shall be replaced by references to 'a dedicated section of the website of the Energy Community',
- (f) references to Directive 2010/30/EU shall be replaced by 'Directive 2010/30/EU, as incorporated and adapted by the Ministerial Council Decision 2010/02/MC-EnC".
- (g) references to Directive 2012/27/EU shall be replaced by 'Directive 2012/27/EU, as incorporated and adapted by the Ministerial Council Decision 2015/08/MC-EnC".
- (h) references to Delegated Regulation (EU) No 1059/2010 shall be replaced by 'Delegated Regulation (EU) No 1059/2010, as incorporated and adapted by the Ministerial Council Decision 2011/03/MC-EnC".
- (i) references to Delegated Regulation (EU) No 1060/2010 shall be replaced by 'Delegated Regulation (EU) No 1060/2010, as incorporated and adapted by the Ministerial Council Decision 2011/03/MC-EnC".
- (j) references to Delegated Regulation (EU) No 1061/2010 shall be replaced by 'Delegated Regulation (EU) No 1061/2010 as incorporated and adapted by the Ministerial Council Decision 2011/03/MC-EnC".
- (k) references to Delegated Regulation (EU) No 1062/2010 shall be replaced by 'Delegated Regulation (EU) No 1062/2010, as incorporated and adapted by the Ministerial Council Decision 2011/03/MC-EnC'.

- (l) references to Delegated Regulation (EU) No 626/2011 shall be replaced by 'Delegated Regulation (EU) No 626/2011, as incorporated and adapted by the Ministerial Council Decision 2011/03/MC-EnC'.
- (m) references to Delegated Regulation (EU) No 392/2012 shall be replaced by 'Delegated Regulation (EU) No 392/2012, as incorporated and adapted by the Ministerial Council Decision 2014/02/MC-EnC'.
- (n) references to Delegated Regulation (EU) No 874/2012 shall be replaced by 'Delegated Regulation (EU) No 874/2012, as incorporated and adapted by the Ministerial Council Decision 2014/02/MC-EnC'.
- (o) references to Delegated Regulation (EU) No 665/2013 shall be replaced by 'Delegated Regulation (EU) No 665/2013, as incorporated and adapted by the Ministerial Council Decision 2014/02/MC-EnC'.
- (p) references to Delegated Regulation (EU) No 811/2013 shall be replaced by 'Delegated Regulation (EU) No 811/2013, as incorporated and adapted by the Ministerial Council Decision 2014/02/MC-EnC'.
- (q) references to Delegated Regulation (EU) No 812/2013 shall be replaced by 'Delegated Regulation (EU) No 812/2013, as incorporated and adapted by the Ministerial Council Decision 2014/02/MC-EnC'.
- (r) references to Delegated Regulation (EU) No 65/2014 shall be replaced by 'Delegated Regulation (EU) No 65/2014, as incorporated and adapted by the Ministerial Council Decision 2014/02/MC-EnC'.
- (s) references to Directive 96/60/EC, shall be replaced by 'Directive 96/60/EC, as incorporated and adapted by the Ministerial Council Decision 2010/02/MC-EnC'.

### **Article 3**

#### ***Ad hoc adaptations***

In addition to the adaptations referred to in Article 2, the following adaptations shall also apply:

1. For the purpose of implementing Regulation (EU) 2017/1369 by the Contracting Parties:

- (a) Article 2(25), the second subparagraph of Article 3(1), Article 4, the second subparagraph of Article 9(2), Article 11(1) to (12), Articles 12, 14, 15, 17, and 18, and Annex I shall not be applicable.
- (b) The deadlines set out in Article 7(4), Article 20(1) and (3) and Article 21 shall be replaced by:

'1 January 2020'.

(c) In Article 3, paragraph 2 shall be replaced by the following:

'2. The supplier shall deliver printed label, including any rescaled labels, and product information sheets, to the dealer free of charge, promptly and in any event within five working days upon the dealer's request.'

(d) In Article 3, the following paragraph 6 shall be added:

'6. After the final unit of a model has been placed on the market, the supplier shall keep the information concerning that model for a period of 15 years. Where appropriate in relation to the average life span of a product, a shorter retention period may be provided for by relevant delegated acts.'

(e) Article 8 shall be replaced by the following:

**'Market surveillance and control of products entering the markets of Contracting Parties**

1. The Secretariat shall encourage and support cooperation and the exchange of information on market surveillance relating to the labelling of products between national authorities of the Contracting Parties that are responsible for market surveillance or in charge of the control of products entering the Contracting Parties' markets, and between them and the Secretariat, inter alia.

Such exchanges of information shall also be conducted when test results indicate that the product complies with this Regulation and the relevant delegated act.

2. Contracting Parties' general market surveillance programmes or sector specific programmes, where applicable, shall include actions to ensure the effective enforcement of this Regulation.

3. For the purposes of the preceding paragraphs, national market surveillance authorities and the Secretariat shall take into account guidelines for the enforcement of this Regulation, in particular as regards best practices for product testing and the sharing of information, developed under Article 8(4) of Regulation (EU) 2017/1369 in the European Union.

4. Market surveillance authorities shall have the right to recover from the supplier the costs of document inspection and physical product testing in case of non-compliance with this Regulation or the relevant delegated acts.'

(f) In Article 10, paragraph 1 shall be replaced by the following:

'1. Where, on completion of the procedure set out in Article 9(4) and (5), objections are raised against a measure taken by a Contracting Party, or where the Secretariat considers a national measure to be contrary to Energy Community law, the Secretariat shall, without delay, consult the Contracting Party, and the supplier or, where appropriate, the dealer and shall evaluate the national measure.

On the basis of the results of that evaluation, the Secretariat shall decide whether the national measure is justified or not and may suggest an appropriate alternative measure. The Secretariat shall seek consent from the European Commission before taking such decision.'

(g) In Article 10, paragraph 4 shall be replaced by the following:

'4. Where the national measure is considered to be justified and the non-compliance of the product is attributed to shortcomings in the harmonised standards referred to in Article 9(6) of this Regulation, the Secretariat shall inform the Commission thereof.'

(h) The title of Article 11 shall read:

#### **'Use of rescaled labels'**

(i) The beginning of the first sentence of Article 11(13) shall be replaced by the following:

'Where, pursuant to Article 11(1) or (3) of Regulation (EU) 2017/1369 in the European Union, a label has been rescaled.'

(j) The last sentence of Article 11(13) shall be replaced by the following:

'By way of derogation from points (a), (b) and (c) of this paragraph, relevant delegated acts may provide for specific rules for energy labels printed on the packaging.'

(k) Article 13 shall be replaced by the following:

#### **'Harmonised standards'**

Where harmonised standards referred to in Article 13 of Regulation (EU) 2017/1369 in the European Union are applied during the conformity assessment of a product, the model shall be presumed to be in conformity with the relevant measurement and calculation requirements of the delegated act.'

(l) Article 16 shall be replaced by the following:

#### **'Relevant delegated acts'**

1. The European Commission may propose to the Ministerial Council the incorporation of relevant delegated acts supplementing Regulation (EU) 2017/1369 in the Energy Community.

2. The Ministerial Council shall decide upon the incorporation and adaptation of these relevant delegated acts at the meeting following the proposal. Upon adoption of a relevant Decision, relevant delegated acts shall be transposed and implemented by all Contracting Parties.

(m) Article 19 shall be replaced by the following:

### **'Evaluation and report**

By 2 August 2025, the Secretariat shall assess the implementation of this Regulation and submit a report to the Ministerial Council.'

(n) The first subparagraph of Article 20(4) shall be replaced by the following:

'Delegated acts adopted pursuant to Article 10 of Directive 2010/30/EU and Directive 96/60/EC, as incorporated and adapted by the Ministerial Council, shall remain in force until they are repealed by a Decision adopted by the Ministerial Council taken under Article 16 of this Regulation.'

(o) In Article 20, paragraph 5 shall be replaced by the following:

'With regard to product groups already covered by relevant delegated acts adopted pursuant to Directive 2010/30/EU as incorporated and adapted by the Ministerial Council, or to Directive 96/60/EC as incorporated and adapted by the Ministerial Council, the energy efficiency classification established by Directive 2010/30/EU, as incorporated and adapted by the Ministerial Council Decision 2010/02/MC-EnC, may continue to apply until the date on which the delegated acts introducing rescaled labels become applicable.'

(p) Article 21 shall be replaced by the following:

### **'Entry into force and application**

This Regulation shall enter into force on the day of its adoption by the Ministerial Council. It shall be transposed, implemented and applicable by 1 January 2020.

Each Contracting Party shall notify the Secretariat of completed transposition within two weeks following the adoption of transposition measures.'

2. For the purpose of implementing Delegated Regulation 2015/1187 by the Contracting Parties:

(a) Article 7 shall not be applicable.

(b) The deadlines set out in Article 3(1), (2) and (3), and Article 8(2) shall be replaced by: '1 January 2020'.

(c) Article 8 shall be replaced by the following:

### **'Entry into force and application**

This Regulation shall enter into force on the day of its adoption by the Ministerial Council. It shall be transposed, implemented and applicable by 1 January 2020.

Each Contracting Party shall notify the Secretariat of completed transposition within two weeks following the adoption of transposition measures.'

3. For the purpose of implementing Delegated Regulation 2015/1186 by the Contracting Parties:

(a) Article 7 shall not be applicable.

(b) The deadlines set out in Article 3(1) and Article 8(2) shall be replaced by: '1 January 2020'.

(c) Article 8 shall be replaced by the following:

**'Entry into force and application**

This Regulation shall enter into force on the day of its adoption by the Ministerial Council. It shall be transposed, implemented and applicable by 1 January 2020.

For flueless heaters using solid fuels and open to chimney heaters using solid fuels, it shall apply from 1 January 2022 as set out in Article 3(2). However, Articles 3(2)(f) and (g) and Article 4(b), (c) and (d) shall apply from 1 April 2022.

Each Contracting Party shall notify the Secretariat of completed transposition within two weeks following the adoption of transposition measures.'

4. For the purpose of implementing Delegated Regulation 2015/1094 by the Contracting Parties:

(a) The first indent in Article 3(2) and Article 7 shall not be applicable.

(b) The deadlines set out in Article 3(1) and in the second indent of Article 3(2) shall be replaced by: '1 January 2020'.

(c) Article 8 shall be replaced by the following:

**'Entry into force and application**

This Regulation shall enter into force on the day of its adoption by the Ministerial Council. It shall be transposed, implemented and applicable by 1 January 2020.

Each Contracting Party shall notify the Secretariat of completed transposition within two weeks following the adoption of transposition measures.'

5. For the purpose of implementing Delegated Regulation 1254/2014 by the Contracting Parties:

(a) Article 7 shall not be applicable.



(b) The deadlines set out in Article 3(1) and (2), as well as in Annexes II and III shall be replaced by: '1 January 2020'.

(c) Article 8 shall be replaced by the following:

**'Entry into force and application**

This Regulation shall enter into force on the day of its adoption by the Ministerial Council. It shall be transposed, implemented and applicable by 1 January 2020.

Each Contracting Party shall notify the Secretariat of completed transposition within two weeks following the adoption of transposition measures.'

6. For the purpose of implementing Delegated Regulation 518/2014 by the Contracting Parties:

(a) The deadlines set out in Articles 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 shall be replaced by: '1 January 2020'.

(b) Article 11 shall be replaced by the following:

**'Entry into force and application**

This Regulation shall enter into force on the day of its adoption by the Ministerial Council. It shall be transposed, implemented and applicable by 1 January 2020.

Each Contracting Party shall notify the Secretariat of completed transposition within two weeks following the adoption of transposition measures.'

7. For the purpose of implementing Delegated Regulation 2017/254 by the Contracting Parties, Article 16 shall be replaced by following:

**'Entry into force and application**

This Regulation shall enter into force on the day of its adoption by the Ministerial Council. It shall be transposed, implemented and applicable by 1 January 2020.

Each Contracting Party shall notify the Secretariat of completed transposition within two weeks following the adoption of transposition measures.'

**Article 4**

**Entry into force and addressees**

This Decision enters into force upon its adoption and is addressed to the Contracting Parties and the institutions under the Treaty.

Done at Skopje, on 29 November 2018

For the Ministerial Council

A handwritten signature in blue ink, appearing to be "A. Zhelev", written over a dotted line.

Presidency