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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, amending Directive (EU) 2020/1828 and Regulation (EU) 2023/1542 and repealing Directive 2009/125/EC

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ([1]),

Acting in accordance with the ordinary legislative procedure ([2]),

Whereas:

(1) The European Green Deal set out in the communication of the Commission of 11 December 2019 is Europe’s sustainable growth strategy and aims to transform the Union into a fair and prosperous society, with a modern, competitive, climate-neutral and circular economy and toxic-free environment. It sets the ambitious objective of ensuring that the Union becomes the first climate neutral continent by 2050. It recognises the advantages of investing in the Union’s competitive sustainability by building a fairer, greener and more digital Europe. Products have a pivotal role to play in this green transition. Underlining that current production processes and consumption patterns remain too linear and dependent on a throughput of new materials extracted, traded and processed into goods that are finally disposed of as waste or emissions, the European Green Deal emphasises the urgent need to transition to a circular economy model and stresses the significant progress that remains to be made. It also identifies energy efficiency as a priority for the decarbonisation of the energy sector and for reaching the climate objectives in 2030 and 2050.

(2) To accelerate the transition to a circular economy model, the Commission designed a future-oriented agenda in its communication of 11 March 2020 on a new Circular Economy Action Plan

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for a cleaner and more competitive Europe (CEAP), with the objective of making the regulatory framework fit for a sustainable future. The CEAP underlines that, ‘for citizens, the circular economy will provide high-quality, functional and safe products, which are efficient and affordable, last longer and are designed for reuse, repair, and high-quality recycling’. As set out in CEAP, there is currently no comprehensive set of requirements to ensure that all products placed on the Union market become increasingly sustainable and stand the test of circularity. In particular, product design does not sufficiently promote sustainability over the whole life cycle. As a result, products are being replaced frequently, involving significant energy and resource use in order to produce and distribute new products and dispose of old ones. It is still too difficult for economic operators and citizens to make sustainable choices in relation to products, given that relevant information and affordable options to do so are lacking. This leads to missed opportunities for sustainability and for value-retaining operations, limited demand for secondary materials and obstacles to the adoption of circular business models.

(3) A fully functioning internal market for sustainable products is a pre-requisite for the establishment of a circular economy in the Union. Common ecodesign requirements at Union level would enable the development, deployment and scaling-up of new circular economy business models throughout the internal market. Such measures would also alleviate the burden on companies and provide industry and consumers with access to reliable and clear data, thereby allowing for more sustainable choices to be made.

(4) The communication of the Commission of 10 March 2020 on a New Industrial Strategy for Europe sets out the Union’s overarching ambition to foster a ‘twin transition’ to climate neutrality and digital leadership. It echoes the European Green Deal in pointing to the leading role that Europe’s industry must play in that, by reducing its carbon footprint and material footprint and embedding circularity across the economy, and underlines the need to move away from traditional models, and revolutionise the way we design, make, use and dispose of products, as well as the need for a secure supply of raw materials. Recycling and the use of secondary raw materials will help reduce the Union's dependency. The communication of the Commission of 5 May 2021 on Updating the 2020 New Industrial Strategy: Building a stronger Single Market for Europe’s recovery reinforces the main messages of the 2020 Strategy and focuses on the lessons from the COVID-19 crisis, including the need to foster resilience.

(5) In the absence of Union law, diverging national approaches in improving the environmental sustainability of products have already emerged, ranging from information requirements concerning the duration of software compatibility of electronic devices to reporting obligations on handling unsold durable goods. This is an indication that further national efforts to achieve the aims pursued by this Regulation would likely lead to further fragmentation of the internal market. Therefore, in order to contribute to the functioning of the internal market while ensuring a high level of environmental protection, an ambitious regulatory framework to progressively introduce ecodesign requirements for products is needed. This Regulation will establish such a framework, by making the ecodesign approach initially set out in Directive 2009/125/EC of the European Parliament and of the Council ([3]) applicable to the broadest possible range of products.

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(6) This Regulation will support production and consumption patterns that are aligned with the Union's overall sustainability targets, including climate, environmental, energy, resource-use and biodiversity targets, while staying within planetary boundaries, by establishing a legislative framework which contributes to enabling products fit for a climate-neutral, resource-efficient and circular economy, reducing waste and ensuring that the performance of frontrunners in sustainability progressively becomes the norm. It should provide for the setting of new ecodesign requirements to improve product durability, reliability, repairability, upgradability, reusability and recyclability, improve possibilities for the refurbishment and maintenance of products, address the presence of hazardous chemicals in products, increase the energy and resource efficiency of products, including with regard to the possibility of recovery of strategic and critical raw materials, reduce their expected generation of waste and increase the recycled content in products, while ensuring their performance and safety, enabling remanufacturing and high-quality recycling and reducing carbon and environmental footprints.

(7) Ecodesign requirements should also address practices associated with premature obsolescence. Such practices have an overall negative impact on the environment, in the form of increased waste and use of energy and materials, which can be reduced through ecodesign requirements while contributing to sustainable consumption.

(8) The European Parliament, in its resolution of 25 November 2020'Towards a more sustainable single market for business and consumers' ([4]), welcomed promoting durable products which are easier to repair, reuse and recycle. In its resolution of 10 February 2021 on the New Circular Economy Action Plan ([5]), the European Parliament underlined that sustainable, circular, safe and non-toxic products and materials should become the norm in the Union market and not the exception and should be seen as the default choice, which is attractive, affordable and accessible for all consumers. The European Parliament also called for Union binding targets to significantly reduce Union material and consumption footprints. It considered that the transition to a circular economy can provide solutions to address the current environmental challenges and the economic crisis brought about by the COVID-19 pandemic. The Council, in its conclusions on 'Making the Recovery Circular and Green' adopted on 11 December 2020, also welcomed the Commission's intention to submit legislative proposals as part of a comprehensive and integrated sustainable product policy framework that promotes climate neutrality, energy and resource efficiency and a non-toxic circular economy, protects public health and biodiversity, and empowers and protects consumers and public buyers.

(9) This Regulation will contribute to achieving the Union's climate and energy objectives. In line with the goals set out in the Paris Agreement, adopted on 12 December 2015 under the United Nations Framework Convention on Climate Change ([6]) (the 'Paris Agreement'), and approved by the Union on 5 October 2016 ([7]), Regulation (EU) 2021/1119 of the European Parliament and of the Council ([8]) establishes a binding Union domestic reduction commitment of net greenhouse gas emissions of at least 55 % by 2030 and enshrines in legislation the target of economy-wide climate neutrality by 2050. In 2021, the Commission adopted the Fit for 55 Package to make the Union's

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climate and energy policies fit for achieving these objectives. To do so, in line with the energy efficiency first principle enshrined in Directive (EU) 2018/2002 of the European Parliament and of the Council ([9]), energy efficiency improvements need to be significantly stepped up, to around 36 % in terms of final energy consumption by 2030. Product requirements established under this Regulation will play a significant role in the reaching of that target by substantially decreasing products' energy footprint. Those energy efficiency requirements will also reduce consumer vulnerability to energy price increases. As recognised by the Paris Agreement, improving the sustainability of consumption and production will also play an important role in addressing climate change.

(10) This Regulation will also contribute to achieving the Union's wider environmental objectives. The 8th Environment Action Programme established by Decision (EU) 2022/591 of the European Parliament and of the Council ([10]) enshrines in a legal framework the Union's objective of staying within the planetary boundaries and identifies enabling conditions to achieve priority objectives, which include the transition to a non--toxic circular economy. The European Green Deal also calls for the Union to better monitor, report, prevent and remedy air, water, soil and consumer products pollution. This means that chemicals, materials and products have to be safe and sustainable by design and during their life cycle, leading to non-toxic material cycles as set out in the communication of the Commission of 12 May 2021 on an EU Action Plan: 'Towards Zero Pollution for Air, Water and Soil' and the communication of the Commission of 14 October 2020 on a Chemicals Strategy for Sustainability — Towards a Toxic-Free Environment, which calls for the zero pollution ambition in production and consumption to be embraced. In addition, both the European Green Deal and the CEAP recognise that the Union internal market provides a critical mass that is able to influence global standards on product sustainability and product design. This Regulation will therefore play a significant role towards achieving several targets established under the Sustainable Development Goals of the United Nations 2030 Agenda for Sustainable Development, both inside and outside the Union, in particular targets under Sustainable Development Goal 12 ('Responsible consumption and production').

(11) Directive 2009/125/EC established a framework for the setting of ecodesign requirements for energy-related products. Together with Regulation (EU) 2017/1369 of the European Parliament and of the Council ([11]), it has significantly reduced Union primary energy demand for products and it is estimated that those savings will continue to increase. Implementing measures adopted under Directive 2009/125/EC have also included requirements concerning circularity aspects, such as durability, repairability and recyclability. At the same time, instruments such as the EU Ecolabel, introduced by Regulation (EC) No 66/2010 of the European Parliament and of the Council ([12]), or the EU green public procurement criteria set out in the communication of the Commission of 16 July 2008 on Public procurement for a better environment are broader in scope but have a reduced impact due to the limitations of voluntary approaches.

(12) Directive 2009/125/EC has been generally successful in fostering the energy efficiency and some circularity aspects of energy-related products, and its ecodesign approach has the potential to

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progressively address the sustainability of all products. To deliver on European Green Deal commitments, this approach should be extended to other product groups and systematically address key aspects for increasing the environmental sustainability of products with binding requirements. By ensuring that only products that meet those requirements are placed on the Union market, this Regulation will not only improve the free movement of such products by avoiding national disparities, but also reduce the negative life cycle environmental impacts of products for which such requirements are set.

(13) In order to create an effective and future-proof harmonised regulatory framework, it is necessary to provide for the setting of ecodesign requirements for all physical goods placed on the market or put into service, including components, such as tyres, and intermediate products. Digital content that is an integral part of a physical product is to be included in the scope. This should allow the Commission to take into account the broadest range of products possible when prioritising the setting of ecodesign requirements and thereby maximise their effectiveness. Where needed, specific exemptions should be provided for when setting ecodesign requirements, in particular where ecodesign requirements are not necessary to contribute to the environmental sustainability of specific products, or, for example, for products with a particular use, products with a particular purpose that could not be fulfilled when complying with ecodesign requirements or products produced in very small quantities, or taking into account the specificity and size of the product's market. In addition, this Regulation should not apply to products for which it is already clear that ecodesign requirements would not be suitable or where other frameworks provide for the setting of such requirements. This should be the case for food and feed as defined in Regulation (EC) No 178/2002 of the European Parliament and of the Council ([13]), for medicinal products as defined in Directive 2001/83/EC of the European Parliament and of the Council ([14]), for veterinary medicinal products as defined in Regulation (EU) 2019/6 of the European Parliament and of the Council ([15]), for living plants, animals and micro-organisms, for products of human origin, for products of plants and animals relating directly to their future reproduction, and for vehicles as referred to in Article 2(1) of Regulation (EU) No 167/2013 of the European Parliament and of the Council ([16]), in Article 2(1) of Regulation (EU) No 168/2013 of the European Parliament and of the Council ([17]) and in Article 2(1) of Regulation (EU) 2018/858 of the European Parliament and of the Council ([18]), in respect of those product aspects for which requirements are set under sector-specific Union legislative acts applicable to those vehicles. Those vehicles are subject to several product-specific requirements and different harmonised type-approval systems under legal Union acts, such as Directives 2000/53/EC ([19]) and 2005/64/EC ([20]) of the European Parliament and of the Council and Regulation (EU) 2018/858. Additional harmonised requirements for vehicles should be limited to aspects that are not currently addressed, for example environmental requirements for tyres. E-bikes and e-scooters should, however, not be excluded from the scope of this Regulation.

(14) Directive (EU) 2024/1275 of the European Parliament and of the Council ([21]) requires Member States to set minimum energy performance requirements for building elements that form part of

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the building envelope and system requirements in respect of overall energy performance, the proper installation and the appropriate dimensioning, adjustment and control of technical building systems in new or existing buildings. It is consistent with the objectives of this Regulation that those minimum energy performance requirements may in certain circumstances limit the installation of energy-related products which comply with this Regulation and its delegated acts, provided that such requirements do not constitute an unjustifiable market barrier.

(15) In order to improve the environmental sustainability of products and to ensure the free movement of products in the internal market, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission to supplement this Regulation by setting ecodesign requirements. Those ecodesign requirements should as a rule apply to specific product groups, such as household washing machines and household washer-dryers. In order to maximise the effectiveness of ecodesign requirements and to efficiently improve the environmental sustainability of products, it should also be possible to set one or more horizontal ecodesign requirements for a wider range of product groups, such as electronic appliances or textiles. Horizontal ecodesign requirements should be established where the technical similarities of product groups allow their environmental sustainability to be improved based on the same requirements. It is important that horizontal requirements be developed in particular concerning durability and repairability.

(16) Ecodesign requirements should include, as appropriate, performance requirements or information requirements, or both. Those requirements should be used to improve product aspects relevant for environmental sustainability, such as durability, reusability, repairability, energy efficiency, recyclability, and carbon and environmental footprints. Ecodesign requirements should be transparent, objective, proportionate and in compliance with international trade rules.

(17) The second-hand sector plays an important role in promoting sustainable production and consumption, including in the development of new circular business models, and contributes to prolonging the lifetime of a product and avoiding it becoming waste. Second-hand products, in particular products that undergo refurbishment or repair, originating from within the Union are not new products and they can circulate within the internal market without needing to comply with delegated acts setting ecodesign requirements that have entered into force after their placing on the market. However, remanufactured products are considered new products and they will be subject to ecodesign requirements if they fall within the scope of a delegated act.

(18) Once a delegated act setting ecodesign requirements is adopted by the Commission for a given product group, Member States should, in order to ensure the functioning of the internal market, no longer be allowed to set national performance requirements based on product parameters covered by such performance requirements laid down in that delegated act, and no longer be allowed to set national information requirements based on product parameters covered by such information requirements laid down in that delegated act. In order to improve the environmental sustainability of products and to ensure their free movement within the internal market, the Commission should be empowered to establish that no ecodesign requirements in the form of performance

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requirements or in the form of information requirements are necessary in relation to a specific product parameter if a requirement related to that specific product parameter would have a negative impact on the ecodesign requirements considered for the product group.

(19) When setting ecodesign requirements, the Commission should take into account the nature and purpose of the products concerned as well as the characteristics of the relevant markets. For example, defence equipment needs to be able to operate under specific and sometimes harsh conditions, and that needs to be considered when setting ecodesign requirements. Certain information on defence equipment should not be disclosed and should be protected. Ecodesign requirements should thus not be set for products with the sole purpose of serving defence or national security. It is important that for other military or sensitive equipment ecodesign requirements take into account the security needs and the characteristics of the defence market, as defined in Directive 2009/81/EC of the European Parliament and of the Council ([22]). Similarly, the space industry is strategic for Europe and for its technological non-dependence. As space technologies operate in extreme conditions, any ecodesign requirements for space products should balance sustainability considerations with resilience and expected performance. Furthermore, for medical devices as defined in Article 2(1) of Regulation (EU) 2017/745 of the European Parliament and of the Council ([23]) and in vitro diagnostic medical devices as defined in Article 2(2) of Regulation (EU) 2017/746 of the European Parliament and of the Council ([24]), the Commission should take into account the need to not negatively affect the health and safety of patients and users. The Commission should furthermore, when assessing the characteristics of the market and preparing ecodesign requirements, strive to consider national characteristics, such as the different climate conditions in Member States and practices and technologies used in Member States with proven beneficial environmental effects.

(20) To avoid a regulatory burden, consistency should be ensured between this Regulation and requirements set in or pursuant to other Union law, especially concerning products, chemicals, packaging and waste. However, the existence of empowerments under other Union law to set requirements with the same or similar effects as requirements under this Regulation should not limit the empowerments included in this Regulation, unless specified in this Regulation.

(21) When preparing ecodesign requirements, the Commission should take into account a number of elements, namely Union priorities, relevant Union and national law, relevant international agreements as well as self-regulation measures and relevant standards. The Commission should also take into account the priorities for the climate, the environment, energy efficiency, resource efficiency and security, including a non-toxic circular economy, and other related Union priorities and targets. It is important to pay attention to the objectives of the 8th Environment Action Programme set out in Decision (EU) 2022/591, including that, by 2050 at the latest, people live well, within the planetary boundaries in a well-being economy, the ‘do no harm’ principle and the waste hierarchy as defined in Directive 2008/98/EC of the European Parliament and of the Council ([25]), as well as the Union’s commitments to protect and restore biodiversity as expressed also in the communication of the Commission of 20 May 2020 on an EU Biodiversity Strategy for

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2030 — Bringing nature back into our lives and the Kunming-Montreal Global Biodiversity Framework adopted by the Fifteenth meeting of the Conference of the Parties (COP-15) to the Convention on Biological Diversity of the United Nations.

(22) Delegated acts setting ecodesign requirements should, as was the case for implementing measures under Directive 2009/125/EC, undergo a dedicated impact assessment and stakeholder consultation, and should be drawn up in line with the Commission's Better Regulation guidelines, and include an assessment of the international dimension and impacts on third countries. The Commission should base its impact assessment on the best available evidence and take due consideration of all aspects of the life cycle of the product. When preparing ecodesign requirements, the Commission should use a scientific approach and also take into consideration relevant technical information used as a basis for or derived from, in particular, Regulation (EC) No 66/2010, Directive 2010/75/EU of the European Parliament and of the Council ([26]), technical screening criteria adopted pursuant to Regulation (EU) 2020/852 of the European Parliament and of the Council ([27]) and EU green public procurement criteria.

(23) In order to take into account the diversity of products, the Commission should select methods to assess the setting of the ecodesign requirements and, as appropriate, develop them further. Such methods should be based on the nature of the product, its most relevant aspects and its impacts over its life cycle. In doing so, the Commission should take account of its experience in assessing the setting of requirements under Directive 2009/125/EC and the continuing efforts to develop and improve science-based assessment tools, including the update of the methodology for ecodesign of energy-related products, and the Product Environmental Footprint method set out in Commission Recommendation (EU) 2021/2279 ([28]), including as regards temporary storage of carbon, as well as the development of standards by international and European standardisation organisations, including on the material efficiency of energy-related products. Building on those tools and using dedicated studies when needed, the Commission should further reinforce circularity aspects, such as durability, repairability, including repairability scoring, recyclability, reusability, identification of chemicals hindering reuse and recycling, in the assessment of products, in accordance with a life cycle approach with a view to preparing ecodesign requirements, and should develop new methods or tools where appropriate. Information related to environmental life cycle indicators, such as the carbon footprint, should be calculated taking into consideration internationally established methods that are already implemented in Union law. It is also important to take into consideration scientific methods recommended by international and European standardisation organisations. In particular, when it comes to the modelling of the energy used in manufacturing processes, particular consideration should be given to modelling of the energy mix that would also take into account issues such as power purchase agreements, guarantees of origin and own electricity production. New approaches might also be needed for the preparation of mandatory public procurement criteria and for bans on the destruction of unsold consumer products.

(24) Performance requirements should relate to a selected product parameter relevant to the targeted product aspect for which potential for improving environmental sustainability has been identified.

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Such requirements could include minimum or maximum levels of performance in relation to the product parameter, non-quantitative requirements that aim to improve performance in relation to the product parameter, or requirements related to a product's functional performance to ensure that the selected performance requirements do not negatively impact the ability of the product to perform the function for which it was designed and marketed. Regarding minimum or maximum levels, they could for example take the form of a limit on energy consumption in the use phase or on the quantities of a given material incorporated in the product, a requirement for minimum quantities of recycled content, or a limit on a specific environmental impact category or on an aggregation of all relevant environmental impacts. An example of a non-quantitative requirement is the prohibition of a specific technical solution that is detrimental to product repairability. Performance requirements will be used to ensure the removal of the worst performing products from the market and to gradually move to the best performing products where that is necessary to contribute to the environmental sustainability objectives of this Regulation. Performance requirements could also concern resource use, including requirements related to the usage of renewable resources or materials with bio-based content in the product and address the release of nano- and microplastics. In envisaging a combination of requirements, the Commission should assess them as a whole and identify the combination of requirements that delivers the highest environmental sustainability benefits.

(25) In order to ensure consistency, performance requirements should complement the implementation of Union law on waste. While requirements for placing on the market packaging as a final product are laid down under European Parliament and Council Directive 94/62/EC ([29]), this Regulation could complement that Directive by setting product-based requirements that focus on the packaging of specific products when placed on the market. Where relevant, such complementary requirements should contribute in particular to minimising the amount of packaging used, in turn contributing to the prevention of waste generation in the Union.

(26) Chemical safety is a recognised element of product sustainability. It is based on the intrinsic hazards of chemicals to health or the environment in combination with specific or generic exposure, and is addressed by Union law on chemicals, such as Regulations (EC) No 1935/2004 ([30]), (EC) No 1907/2006 ([31]), (EC) No 1272/2008 ([32]), (EC) No 1223/2009 ([33]), (EU) 2017/745 and (EU) 2019/1021 ([34]) and Directive 2009/48/EC ([35]) of the European Parliament and of the Council. This Regulation should not provide for the restriction of substances based primarily on chemical safety, as done under other Union law. Union law on chemicals already provides for the restriction of substances or mixtures related to safety or risk, where needed. However, the setting of performance requirements should also, where appropriate, reduce significant risks to human health or the environment. Information requirements concerning the presence of substances of concern will also contribute to reducing the exposure to chemicals, adding to the risk management measures provided for by other Union law. Similarly, this Regulation should not enable the restriction of substances for reasons related to food safety. Union law on chemicals and food, however, does not provide for impacts on sustainability that are unrelated to chemical safety or food safety to be addressed through restrictions on certain

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substances. To overcome that limitation, this Regulation should provide, under certain conditions, for the restriction of substances present in products or used in their manufacturing processes which negatively affect products' sustainability. This Regulation should complement, where necessary, but not duplicate or replace restrictions on substances covered by Directive 2011/65/EU of the European Parliament and of the Council ([36]), which has as its objective the protection of human health and the environment, including the environmentally sound recovery and disposal of waste from electrical and electronic equipment.

(27) The Commission, when setting performance requirements, should be able to introduce requirements to prevent certain substances from being included in a product. The identification of such substances should be part of the Commission's assessment prior to the setting of ecodesign requirements for a specific product group and the Commission should in that assessment, for instance, take into account whether a substance makes the reuse or recycling of a product more complicated or negatively affects the properties of the recycled material, for example through its colour or smell. Where a substance has already been established as being a substance that hinders circularity for one product group, this can be an indication that it also hinders circularity for other product groups. The identification and possible restriction of a substance should also trigger an information requirement.

(28) To improve the environmental sustainability of products, information requirements should relate to a selected product parameter relevant to a product aspect, such as the product's environmental footprint, carbon footprint and durability. They should require the manufacturer to make available information on the product's performance in relation to a selected product parameter or other information that may influence the way the product is handled by parties other than the manufacturer in order to improve performance in relation to such a parameter. Such information requirements should be set either in addition to, or instead of, performance requirements concerning the same product parameter, as appropriate. It is important that the Commission duly justify its decision to only lay down information requirements instead of performance requirements. Where a delegated act includes information requirements, it should indicate the method for making the required information available and easily accessible, such as its inclusion on a free-access website, in a digital product passport or on a product label. Essential information relating to the health, safety and rights of end users should always be provided to consumers by physical means and be accessible through a data carrier included on the product. Information requirements are necessary to lead to the behavioural change needed to ensure that the environmental sustainability objectives of this Regulation are achieved. Information relevant for making an informed purchasing decision should be provided to the consumer prior to the purchase of the product. By providing appropriate means for purchasers and public authorities to compare products on the basis of their environmental sustainability, information requirements are expected to drive consumers and public authorities towards more sustainable choices. Information requirements should also contribute to improved collection rates by Member States for relevant product groups, in particular for those for which a significant reuse and refurbishment potential exists, such as mobile phones for which the collection rate in Member States does not exceed 5 %,

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for example by facilitating information on take-back schemes through financial incentives and deposit-refund systems, data privacy guarantees, databases of drop-off points, and personalised end-of-life information, via a digital product passport, on the value of the product and on best practices about proper disposal.

(29) Where delegated acts include information requirements, they could, in addition, determine classes of performance in relation to one or more relevant product parameters, in order to facilitate comparison between products. Classes of performance should enable differentiation of products based on their relative sustainability and could be used by both consumers and public authorities. As such, they are intended to drive the market towards more sustainable products.

(30) Information requirements concerning repairability and durability play a key role in enabling consumers to engage in sustainable consumption. This Regulation should enable the establishment of repairability or durability scores for products where such scores are deemed appropriate for the purpose of providing environmental benefits and clearer information for consumers. In order to allow consumers to effectively assess and compare products, it is important that the format, content and display of such repairability and durability scores include easy-to-understand language and pictograms and that the repairability score be based on a harmonised methodology specified for the product or product group and which aggregates parameters, such as the availability and price of spare parts, the ease of disassembly and the availability of tools, into a single score.

(31) Information on the presence of substances of concern in products is a key element to identify and promote products that are sustainable. The chemical composition of products largely determines their functionalities and impacts, as well as the possibility for their reuse or for recovery once they become waste. The Commission’s communication of 14 October 2020‘Chemicals Strategy for Sustainability Towards a Toxic-Free Environment’ calls for the presence of substances of concern in products to be minimised, and the availability of information on chemical content and safe use to be ensured, by introducing information requirements and tracking the presence of substances of concern throughout the life cycle of materials and products. Regulation (EC) No 1272/2008 and other existing chemicals law such as Regulation (EC) No 1223/2009 already ensure communication on hazards to health or the environment posed by certain substances of concern on their own or in a mixture. Users of substances and mixtures should also be provided with pertinent information. Furthermore, users of products other than substances or mixtures, and managers of waste from such products, should also receive relevant information, including information primarily related to the hazards of chemicals to health or the environment. Therefore, this Regulation should provide for the setting of requirements related to the tracking and communication of sustainability information, including the presence of substances of concern in products throughout their life cycle, also with a view to the decontamination and recovery of such products when they become waste. Such a framework should aim to progressively cover the substances of concern in all products listed in working plans to be adopted by the Commission. Such requirements concerning the tracking of substances of concern should be included by default where an information requirement is to be set under this Regulation, except when such an information requirement is part of horizontal ecodesign requirements. In order to take into account

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the criteria to be met by ecodesign requirements, and in particular to avoid a disproportionate administrative burden for economic operators, the Commission should be able, as appropriate for the product group concerned, to set thresholds on the concentration of substances in the product or relevant components triggering the tracking requirement, set differentiated application deadlines and, in duly justified cases, provide derogations from the tracking requirement. When setting the detail of information required and thresholds, the Commission should take into consideration existing information requirements and thresholds under Union law, in particular under Regulations (EC) No 1907/2006 and (EC) No 1272/2008, and other sectoral product legislation. A derogation based on technical feasibility could apply in cases where the presence of a substance in a product cannot be verified with the current available technologies.

(32) The information requirements set under this Regulation should include the requirement to make a digital product passport available. The digital product passport is an important tool for making information available to actors along the entire value chain and the availability of a digital product passport is expected to significantly enhance end-to-end traceability of a product throughout its value chain. Among other things, the digital product passport is expected to help customers make informed choices by improving their access to relevant information, allow economic operators, namely manufacturers, authorised representatives, importers, distributors, dealers and fulfilment service providers, and other value chain actors, such as customers, professional repairers, independent operators, refurbishers, remanufacturers, recyclers, market surveillance and customs authorities, civil society organisations, researchers, trade unions, and the Commission, or any organisation acting on their behalf, to access, introduce or update relevant data, and enable competent national authorities to perform their duties, without endangering the protection of confidential business information. To that end, it is important that the digital product passport be user-friendly and that the data contained therein be accurate, complete and up to date. The digital product passport should, where necessary, be complemented by non-digital forms of transmitting information, such as information in the product manual or on a label. In addition, it should be possible for the digital product passport to be used for providing information concerning the relevant product group pursuant to other Union law.

(33) To take account of the nature of the product and its market, the information to be included in the digital product passport should be carefully examined on a case-by-case basis when preparing product-specific rules. To optimise access to the resulting data while also protecting intellectual property rights, the digital product passport needs to be designed and implemented in a manner that allows differentiated access to the data in the digital product passport depending on the type of data and the typology of stakeholders. Similarly, to avoid costs for companies and for the public that are disproportionate to the wider benefits, the digital product passport should be specific to the item, batch or product model, depending on, for example, the complexity of the value chain, the size, nature or impacts of the products considered. The impact assessments carried out when preparing the delegated acts setting ecodesign requirements should analyse the costs and benefits of setting information requirements through digital product passports at model, batch or item level. The term ‘model’ usually refers to a version of a product of which all units share the same

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technical characteristics relevant for the ecodesign requirements and the same model identifier, the term ‘batch’ usually refers to a subset of a specific model composed of all products produced in a specific manufacturing plant at a specific moment in time and the term ‘item’ usually refers to a single unit of a model. The impact assessment should also, to the extent that the digital product passport relies on standards which are not free of charge, consider whether such reliance is appropriate and how disproportionate costs for micro, small and medium-sized enterprises (SMEs) can be avoided.

(34) Given that other Union law sets information requirements for products and sets up systems to make information available to economic operators and customers, the Commission should consider linking information requirements under this Regulation to those other requirements, such as the obligation to provide safety data sheets for substances and mixtures in accordance with Regulation (EC) No 1907/2006. Where feasible, the Commission should also link the digital product passport to existing Union databases and tools such as the European Product Registry for Energy Labelling (EPREL) or the database for information on Substances of Concern In articles, as such or in complex objects (Products) (SCIP).

(35) In order to not unnecessarily delay the setting of ecodesign requirements other than those concerning the digital product passport or to ensure that digital product passports can be effectively implemented, the Commission should be allowed to exempt product groups from the digital product passport requirements where technical specifications are not available in relation to the essential requirements for the technical design and operation of the digital product passport. Similarly, in order to prevent an unnecessary administrative burden for economic operators, the Commission should be allowed to exempt product groups from the digital product passport requirements in the event that other Union law already includes a system for the digital provision of product information allowing actors along the value chain to access relevant product information and facilitating the verification of product compliance by competent national authorities. Those exemptions should be periodically reviewed taking into account further availability of technical specifications.

(36) Unique identification of products is a fundamental element as regards enabling traceability across the supply chain. Therefore, the digital product passport should be linked to a unique product identifier. In addition, where appropriate, the digital product passport should be linked to a unique operator identifier and a unique facility identifier which would allow the actors and manufacturing facilities related to that product to be traced. In order to ensure interoperability, the data carrier, the unique operator identifier and the unique facility identifier enabling traceability should be issued in accordance with internationally recognised standards. The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend this Regulation by replacing or adding standards in accordance with which the data carrier, the unique operator identifier and the unique facility identifier can be issued, in light of technical or scientific progress. This should ensure that the data contained in the digital product passport can be recorded and transmitted by all the economic operators, as well as guarantee the compatibility of unique

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identifiers with external components such as scanning devices. Moreover, the data should be transferable through an open interoperable data exchange network without vendor lock-in.

(37) Digitalised information about the product and its life cycle or, where applicable, its passport should be easily accessible by scanning a data carrier, such as a watermark or a quick response (QR) code. Where possible, the data carrier should be on the product itself to ensure the data remain accessible throughout its life cycle. However, derogations should be possible depending on the nature, size or use of the products concerned.

(38) To ensure access to the digital product passport for the period specified in delegated acts, including after an insolvency, a liquidation or a cessation of activity in the Union, the economic operator placing the product on the market should make available a back-up copy of the digital product passport through a digital product passport service provider that is an independent third party.

(39) To ensure the effective roll-out of the digital product passport, its technical design, data requirements and operation should adhere to a set of essential technical requirements that provide a basis for the consistent deployment of the digital product passport across sectors. Technical specifications should be established to ensure the effective implementation of those essential requirements, either in the form of harmonised standards for which the references have been published in the *Official Journal of the European Union* or, as a fall-back option, common specifications adopted by the Commission via implementing acts. The technical design should ensure that the digital product passport carries data in a secure way, respecting privacy rules. It is necessary that the digital product passport be developed in an open dialogue with international partners, in order to take account of their views when developing technical specifications and to ensure that they help remove trade barriers for greener products with extended life cycles and circularity, lowering costs for sustainable investments, marketing, compliance, and supporting innovation. In order to allow for their effective implementation, it is important that technical specifications and requirements related to traceability across the value chain be developed, to the extent possible, on the basis of a consensual approach and of the involvement, buy-in, and effective collaboration of a diverse set of actors, including standardisation bodies, industry associations, start-ups, consumer organisations, experts, non-governmental organisations (NGOs) and international partners, including developing economies.

(40) The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by clearly defining the role and responsibilities of the different actors, such as issuing agencies and service providers, that will be involved in the creation, authentication, processing and storing of data, and possibly the withdrawal of important elements of the digital product passport, such as unique identifiers and data carriers. The Commission could, to that extent, carry out an impact assessment to investigate the appropriateness of developing a certification scheme for digital product passport service providers.

(41) To ensure that the digital product passport is flexible, agile and market-driven and evolves in line with business models, markets and innovation, it should be based on a decentralised data system

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and be set up and managed by economic operators. However, for enforcement and monitoring purposes, it is necessary that competent national authorities and the Commission have direct access to a record of all unique identifiers linked to products placed on the market or put into service. To that end, the Commission should set up and manage a digital product passport registry to store such data (the ‘registry’). Where needed to further facilitate enforcement, the Commission should, where appropriate, specify other data included in the digital product passport that need to be stored in the registry.

(42) The Commission should set up and maintain a user-friendly and publicly available web portal where stakeholders, such as customers, economic operators and other relevant actors, have access to data included in the digital product passports and the possibility of searching for and comparing data included in those passports in line with their respective access rights specified in the delegated acts setting ecodesign requirements. The web portal should provide links to data already stored by the economic operator in its decentralised digital product passport.

(43) Any processing of personal data pursuant to this Regulation is to comply with the applicable rules on the protection of personal data. Processing of personal data by the competent national authorities within Member States is to be carried out in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council ([37]) with particular attention being paid to the principles of data protection by design and by default. Any processing of personal data by the Commission, in particular those stored in the registry, is to be carried out in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council ([38]). Personal data of customers should not be stored in the digital product passport.

(44) Effective enforcement in relation to products placed on the Union market, whether domestically produced or imported, is essential for achieving the aims of this Regulation. Therefore, once the Commission has set up the registry, customs authorities should have direct access to it via the EU Single Window Environment for Customs established by Regulation (EU) 2022/2399 of the European Parliament and of the Council ([39]). The role of customs authorities should be to verify as a minimum that the unique registration identifier of a product which is required to be provided or made available to them and the relevant commodity code correspond to the data that are stored in the registry. This would allow customs authorities to verify that a digital product passport for imported products exists. Where appropriate, the Commission should lay down in its implementing act on the registry the necessary obligations for economic operators to keep the data stored in the registry up to date.

(45) The data included in the digital product passport are intended to allow customs authorities to enhance and facilitate risk management and enable the controls at the border to be better targeted. Therefore, customs authorities should be able to retrieve and use the data included in the digital product passport and the related registry for carrying out their tasks in accordance with Union law, including for risk management in accordance with Regulation (EU) No 952/2013 of the European Parliament and of the Council ([40]).

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(46) To drive consumers towards sustainable choices, labels should, when required by the delegated acts adopted pursuant to this Regulation, provide clear and easily understandable information allowing for the effective comparison of products, for instance by indicating classes of performance. Specifically for consumers, physical labels can be an additional source of information at the place of sale. They should provide a quick visual basis for consumers to distinguish between products based on their performance in relation to a specific product parameter or a set of product parameters. They should, where appropriate, also make it possible to access additional information by bearing specific references such as website addresses, dynamic QR codes, links to online labels or any appropriate consumer-oriented means. The Commission should set out in the relevant delegated act the most effective way of displaying such labels, including in the case of online distance selling, taking into account the implications for customers and economic operators and the characteristics of the products concerned. The Commission should be able to also require the label to be printed on the packaging of the product.

(47) Regulation (EU) 2017/1369, which sets a framework on energy labelling, applies, in parallel to this Regulation, to energy-related products. Energy labels are a successful instrument as regards providing the appropriate information to consumers for energy-related products. Classes of performance determined under this Regulation should, where appropriate, be incorporated in the energy label as supplementary information as provided for in Article 16 of Regulation (EU) 2017/1369. In cases where relevant information on a product's performance in relation to a product parameter cannot be included as supplementary information in the energy label, the Commission should, where appropriate, be able to require the establishment of a label in accordance with this Regulation instead of the energy label, in which the relevant information of the energy label can be so incorporated.

(48) Consumers need to be protected from misleading information that could hamper their choices for more sustainable products. For that reason, it should be prohibited to place on the market or put into service products that bear or are accompanied by labels which are likely to mislead or confuse customers by mimicking the labels provided for in this Regulation, or that are accompanied by any other information which is likely to mislead or confuse customers with regard to the labels provided for in this Regulation. The EU Ecolabel and other nationally or regionally officially recognised EN ISO 14024 type I ecolabels are not to be considered misleading or confusing labels, provided that the criteria developed under those labelling schemes are at least as strict as the ecodesign requirements.

(49) To deliver in the most efficient way on the European Green Deal's objectives and to address the most impactful products first, the Commission should carry out a prioritisation of products to be regulated under this Regulation and requirements that will apply to them. Based on the process followed for prioritisation under Directive 2009/125/EC, the Commission should adopt a working plan covering at least three years and laying down a list of product groups for which it intends to adopt delegated acts, as well as the product aspects for which it intends to adopt delegated acts of horizontal application. The Commission should base its prioritisation on a set of criteria pertaining

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in particular to the delegated acts' potential contribution to achieving the Union's climate, environmental and energy objectives, and their potential for the improvement of the product aspects selected, without leading to disproportionate costs for the public and economic operators. Member States and stakeholders should also be consulted through an Ecodesign Forum to be established by the Commission. Due to the complementarities between this Regulation and Regulation (EU) 2017/1369 for energy-related products, the timelines for the working plan under this Regulation and the working plan provided for under Article 15 of Regulation (EU) 2017/1369 should be aligned. When prioritising intermediate products, the Commission should also take into account the consequences for final products that are made from such intermediate products. Considering their importance for meeting the Union's energy objectives, the working plan should include an adequate share of actions related to energy-related products. Vehicles as referred to in Article 2(1) of Regulation (EU) No 167/2013, in Article 2(1) of Regulation (EU) No 168/2013 and in Article 2(1) of Regulation (EU) 2018/858 are already subject to comprehensive provisions, including specific environmental requirements, and should therefore not be prioritised for the setting of ecodesign requirements. For the first working plan, the Commission should prioritise iron, steel, aluminium, textiles, in particular garments and footwear, furniture, including mattresses, tyres, detergents, paints, lubricants, chemicals, information and communication technology products and other electronics, and energy-related products for which ecodesign requirements are to be set for the first time or for which existing measures adopted pursuant to Directive 2009/125/EC are to be reviewed under this Regulation. The Commission should provide an appropriate justification in the event that it decides to modify that list.

(50) The cement industry, as one of the most energy-, material- and carbon- intensive sectors, is currently responsible for around 7 % of global and 4 % of Union CO_2 emissions, which makes it a key sector for alignment with the Paris agreement and the Union's climate objectives as quickly as possible. While construction products, including cement, are to be covered under a Regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products (the 'construction products Regulation'), they remain under the scope of this Regulation. To avoid a lack of product requirements urgently needed to reach our climate and environmental objectives, in the absence of adequate performance requirements and information requirements for such products under the construction products Regulation, the Commission should adopt delegated acts setting ecodesign requirements for cement not earlier than 31 December 2028 and not later than 1 January 2030.

(51) In addressing construction products, this Regulation should set requirements for final products only where the obligations created by the construction products Regulation and its implementation are unlikely to sufficiently achieve the environmental sustainability objectives pursued by this Regulation. In addition, when formulating working plans, the Commission should take into account that, in continuation of current practice, the construction products Regulation, gives prevalence to sustainability requirements set under this Regulation for energy-related products that are also construction products. This should be the case for instance for heaters, boilers, heat pumps, water and space heating appliances, fans, cooling and ventilating systems and photovoltaic

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products, excluding building-integrated photovoltaic panels. The construction products Regulation can apply to those products in a complementary manner where needed, mainly in relation to safety aspects, also taking account of other Union law on products such as on gas appliances, low voltage equipment and machinery.

(52) In order to ensure that proper consultation of all interested parties takes place, the Commission should establish an Ecodesign Forum, composed of experts designated by Member States and other interested parties, such as representatives of industry, including SMEs and craft industry, social enterprises, trade unions, traders, retailers, importers, consumer and environmental organisations, actors involved in circular economy activities, European standardisation organisations, as well as researchers. Within the Ecodesign Forum, the Commission should establish a Member States Expert Group, which should contribute to preparing new ecodesign requirements, to assessing self-regulation measures, to the exchange of information and best practices between Member States on measures to enhance compliance with this Regulation, such as education and information campaigns or provision of support to SMEs, as well as to setting priorities.

(53) In order to encourage self-regulation as a valid alternative to regulatory approaches, this Regulation should, building on Directive 2009/125/EC, include the possibility for industry to submit self-regulation measures for products which are not included in the working plan. Self-regulation measures should be aligned with the objectives of this Regulation. The Commission should assess the self-regulation measures proposed by industry, along with the information and evidence submitted by the signatories, in light of, inter alia, the international trade commitments of the Union and the need to ensure consistency with Union law. It is also appropriate, for instance in view of relevant market or technological developments within the product group concerned, that the Commission be able to request a revised version of the self-regulation measure whenever considered necessary. Once a self-regulation measure is listed in an implementing act containing a list of self-regulation measures which fulfil the criteria set in this Regulation, there is a legitimate expectation for economic operators that the Commission will first consider the content of such a measure before proposing a delegated act setting ecodesign requirements for the specific product group concerned. However, the Commission should be able to adopt ecodesign requirements also applying to some or all of the products covered by a recognised self-regulation measure for the product aspects not addressed by that self-regulation measure. Where the Commission considers that a self-regulation measure no longer fulfils the criteria set in this Regulation, it should remove it from that implementing act. Consequently, it should be possible to set ecodesign requirements for the product groups previously addressed by that self-regulation measure.

(54) SMEs could greatly benefit from an increase in the demand for sustainable products but could also face costs and difficulties due to some of the requirements. The Commission should, when preparing ecodesign requirements, take into account their impact on SMEs, in particular on microenterprises, active in the relevant product sector. The Member States and the Commission should, in their respective areas of responsibility, provide adequate information including

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guidance, provide targeted and specialised training, and provide specific assistance and support, including financial support, to SMEs active in the manufacturing of products for which ecodesign requirements are set. Those actions are particularly important for product groups where the presence of SMEs is relevant. The Commission should, where appropriate, support the calculation of the product environmental footprint by providing digital tools, such as tools for life cycle assessment calculation, and support the implementation of the digital product passport. It is important that the Commission provide financial support to SMEs' representatives, in particular those of microenterprises, to enable their effective participation in the Ecodesign Forum and that it provide easily accessible information to SMEs on available financial support and programmes. Member States' actions should be taken in accordance with applicable State aid rules. While developing and implementing those actions, Member States can rely on the support provided by Union programmes and initiatives for SMEs.

(55) The destruction of unsold consumer products, such as textiles and footwear, by economic operators is becoming a widespread environmental problem across the Union, in particular due to the rapid growth of online sales. It amounts to a loss of valuable economic resources as goods are produced, transported and afterwards destroyed without ever being used for their intended purpose. It is therefore necessary, in the interest of environmental protection, that this Regulation establish a framework to prevent the destruction of unsold products primarily intended for consumers, including products that have not been offered for sale or products returned by consumers on the basis of their right of withdrawal as laid down by Directive 2011/83/EU of the European Parliament and of the Council ([41]) or during any longer withdrawal period provided by the trader. The concept of destruction as outlined in this Regulation should cover the last three activities on the waste hierarchy, namely recycling, other recovery and disposal. Preparation for reuse, including refurbishment and remanufacturing, should not be considered destruction. Preventing destruction will reduce the environmental impact of those products by reducing the generation of waste and by disincentivising overproduction. Economic operators should take the measures necessary to prevent the need to destroy unsold consumer products. In addition, given that several Member States have introduced national legislation on the destruction of unsold consumer products thereby creating market distortions, harmonised rules on the destruction of unsold consumer products are necessary to ensure that distributors, retailers and other economic operators are subject to the same rules and incentives across Member States.

(56) To disincentivise the destruction of unsold consumer products and to generate further data on the occurrence of this practice, this Regulation should introduce a transparency obligation for economic operators, with the exception of micro and small enterprises, requiring them to disclose information on the number and weight of unsold consumer products discarded per year at least on an easily accessible page of their website. Where applicable, they should also have the possibility of including that information in their management reports pursuant to Directive 2013/34/EU of the European Parliament and of the Council ([42]). The obligation should start applying to medium-sized enterprises six years after the entry into force of this Regulation. The economic operator should indicate the product type or category, the reasons for discarding the products and their

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delivery for subsequent waste treatment operations, as well as measures taken and measures planned to prevent the destruction of unsold consumer products.

(57) The unnecessarily high production volumes and short use phase of textiles, of which clothing comprises the largest share of consumption in the Union, cause a significant environmental impact as described in the communication of the Commission of 30 March 2022 on an EU Strategy for Sustainable and Circular Textiles. Newly produced but unsold textiles and especially clothing are among the items reportedly being destroyed. Clothing should be given a higher value, and be worn longer and cared for more, than is the case in today's fast fashion culture. From a circular economy perspective, such wasting of valuable resources is in clear contradiction to the objectives of this Regulation. It is therefore justified to prohibit the destruction of unsold consumer apparel and clothing accessories as well as footwear.

(58) In order to take account of the environmental impact of the destruction of other types of unsold consumer products, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to amend this Regulation by adding new products to the list of consumer products of which the destruction by economic operators is prohibited. Given the wide range of products that may potentially be destroyed without ever being sold or used, it is necessary that the Commission assess the extent to which the destruction of such products takes place in practice, taking into account the information made available by economic operators where appropriate. To ensure that this obligation is proportionate, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by setting out specific derogations under which destroying unsold consumer products can still be permitted, for instance in view of health and safety concerns. To monitor the effectiveness of such prohibition and to disincentivise circumvention, economic operators should be required to disclose the number and weight of unsold consumer products discarded, the reasons for discarding those products and applicable derogations. Finally, to avoid any undue administrative burden for micro and small enterprises, they should be exempted from the prohibition of destruction of specific products set in this Regulation. That prohibition should start applying to medium-sized enterprises six years after the entry into force of this Regulation. However, where there is reasonable evidence that micro and small enterprises could be used to circumvent that prohibition, the Commission should be able to require in delegated acts that the prohibition of destruction of unsold consumer products or the disclosure obligation apply to those enterprises for specific products.

(59) Member States should not be precluded from introducing or maintaining national measures as regards the destruction of unsold consumer products for products which are not subject to the prohibition under this Regulation, provided that such measures are in line with Union law.

(60) Based on the information disclosed by economic operators and other available evidence, the Commission should publish on its website consolidated information on the destruction of unsold consumer products and should identify in the working plan the products for which the prohibition of destruction should be considered. Electrical and electronic equipment should be considered for inclusion in the first working plan.

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(61)Economic operators should be responsible for the compliance of products with the ecodesign requirements, in relation to their respective roles in the supply chain, so as to ensure the free movement of those products on the internal market and to improve their sustainability. Economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that they only make available on the market products that are in conformity with this Regulation and the delegated acts adopted pursuant to it.

(62)Since manufacturers have detailed knowledge of the design and production process, they should be responsible for carrying out the conformity assessment procedure applicable or for having it carried out on their behalf.

(63)In order to safeguard the functioning of the internal market, it is necessary to ensure that products from third countries entering the Union market comply with this Regulation and with the delegated acts adopted pursuant to it, whether imported as products, components or intermediate products. In particular, it is necessary to ensure that appropriate conformity assessment procedures have been carried out by manufacturers with regard to those products. Importers should therefore be required to ensure that the products they place on the market comply with those requirements and that the CE marking and documentation drawn up by manufacturers are available for inspection by the competent national authorities. Importers should also be required to ensure, where applicable, that a digital product passport is available for those products.

(64)When placing a product on the market, importers should indicate on the product their name, registered trade name or registered trade mark as well as the postal address at which and electronic means of communication through which they can be contacted. Derogations should be provided for in cases where the size of the product does not allow for such indications or where importers would have to open the packaging to put the name and address on the product or where the product is too small in size to affix such information.

(65)As distributors make products available on the market after those products have been placed thereon by the manufacturer or importer, they should act with due care in relation to the applicable ecodesign requirements. Distributors should also ensure that their handling of products does not adversely affect the compliance of those products with this Regulation or the delegated acts adopted pursuant to it.

(66)As distributors and importers are close to the marketplace and have an important role in ensuring product compliance, they should be involved in market surveillance tasks carried out by the competent national authorities, and they should be prepared to participate actively, providing those authorities with all necessary information relating to the product concerned.

(67)As dealers offer products for sale, hire or hire purchase, or display products to customers or installers, it is necessary that dealers ensure that their customers, including potential customers, can effectively access the information required under this Regulation, including in the case of distance selling. In particular, this Regulation should require dealers to ensure that the digital product passport is accessible to their customers, including potential customers, and that labels are

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clearly displayed, in line with the applicable requirements. Dealers should comply with that obligation every time a product is offered for sale, hire or hire purchase.

(68) To facilitate the choice of more sustainable products, labels, where required, should be displayed in a clearly visible and identifiable way. They should be identifiable as the labels belonging to the product in question, without customers, including potential customers, having to read the brand name and model number on the labels. Labels should attract the attention of the customers browsing through the products displayed. To ensure that the labels are accessible to customers when considering a purchase, both the dealer and the responsible economic operator should display them whenever advertising the product, also in cases of distance selling, including online.

(69) Importers or distributors that either place on the market a product covered by a delegated act adopted pursuant to this Regulation under their own name or trademark, or modify such a product before it has been put into service in such a way that compliance with this Regulation or with the relevant delegated act might be affected, should be considered to be the manufacturer and should assume the manufacturer’s obligations.

(70) Providers of online marketplaces play a crucial role in the supply chain, allowing economic operators to reach a large number of customers. Given their important role as intermediaries between economic operators and customers in the sale of products, providers of online marketplaces should take responsibility for addressing the sale of products that do not comply with ecodesign requirements and should cooperate with market surveillance authorities. Directive 2000/31/EC of the European Parliament and of the Council ([43]) provides the general framework for e-commerce and lays down certain obligations for online platforms. Regulation (EU) 2022/2065 of the European Parliament and of the Council ([44]) regulates the responsibility and accountability of providers of intermediary services online with regard to illegal content, including products that do not comply with ecodesign requirements. Building on that general framework, specific requirements to effectively address the sale of non-compliant products online should be brought in.

(71) It is essential that providers of online marketplaces cooperate closely with the market surveillance authorities. An obligation of cooperation with market surveillance authorities is imposed on information society service providers under Article 7(2) of Regulation (EU) 2019/1020 of the European Parliament and of the Council ([45]) in relation to products covered by that Regulation, including products for which ecodesign requirements are set under this Regulation. For that purpose, the general obligations as laid down under Chapter IV of Regulation (EU) 2022/2065 should apply, in particular the obligation related to compliance by design for providers of online marketplaces in Article 31 of Regulation (EU) 2022/2065. For the purposes of Article 31(3) of Regulation (EU) 2022/2065, providers of online marketplaces should make use, inter alia, of the information available in the public user interface of the information and communication system referred to in Regulation (EU) 2019/1020. Providers of online marketplaces should also cooperate with market surveillance authorities to tackle illegal content related to non-compliant products. Actions within the framework of that cooperation should include the establishment of a regular

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and structured exchange of information on action taken by providers of online marketplaces, including the removal of product offers. Providers of online marketplaces should also grant access to their interfaces to help market surveillance authorities to identify non-compliant products sold online. Moreover, it is possible that market surveillance authorities would also need to scrape data from online marketplaces.

(72) Article 14 of Regulation (EU) 2019/1020 provides market surveillance authorities with the power, where no other effective means are available to eliminate a serious risk, to require the removal of content referring to non-compliant products from an online interface. The powers entrusted to market surveillance authorities by that Regulation should also apply in the context of this Regulation. However, for effective market surveillance under this Regulation and to avoid non-compliant products being present on the Union market, those powers should apply in all necessary and proportionate cases, including for products presenting a less than serious risk. Those powers should be exercised in accordance with Article 9 of Regulation (EU) 2022/2065.

(73) Ensuring a product’s traceability throughout the whole supply chain facilitates the market surveillance authorities’ task of tracing economic operators that placed on the market or made available on the market non-compliant products. Economic operators should therefore be required to keep the information on their transactions for a certain period of time.

(74) To speed up and facilitate the verification of compliance of products placed on the market, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by requiring economic operators, where necessary, to make specific parts of the technical documentation digitally available both to competent national authorities and to the Commission. This would allow competent national authorities to access such information without request, while continuing to guarantee the protection of trade secrets and intellectual property rights. Possible means of making such information digitally available should as a rule include a digital product passport, or via inclusion in the compliance part of the product database referred to in Regulation (EU) 2017/1369, or on a website of the economic operator. Such an obligation should not take away from the competent national authorities’ right to access other parts of the technical documentation on request.

(75) In order to allow for a better estimation of relevant products’ market penetration, to better inform studies feeding into the drafting or updating of ecodesign requirements and working plans, and to help identify the market share of specific product groups in order to speed up the formulation or review of ecodesign requirements, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by requiring the collection of adequate and reliable data on the sale of products, by allowing the collection of such data by or on behalf of the Commission directly from manufacturers or retailers. When adopting rules on monitoring and reporting, the Commission should take into account the need to maximise the available data on market penetration and the need to minimise the administrative burden for economic operators, especially for SMEs.

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(76) In order to improve future ecodesign requirements and improve end users' confidence with regard to identifying and correcting deviations between energy in-use and other performance parameters when measured under test conditions and actual functioning, the Commission should have access to non-personal data about products' actual energy consumption while in use and where relevant to other performance parameters. To that end, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by requiring that individual products, similarly to road vehicles, record their consumption and other relevant performance parameters and display the related data to the end user. For products connected to the internet, the power to adopt delegated acts should be delegated to the Commission to supplement this Regulation by requiring economic operators to remotely collect non-personal in-use data and report those data to the Commission, as it is essential to identify how the products perform and to inform the public. For products whose in-use performance depends significantly also on climatic or geographical conditions, general climatic or geographical information should also be collected and reported, in a way that does not allow the specific location of individual appliances to be determined. End users should expressly agree to the collection of information that they consider is appropriate to share. Collection of information about the behaviour of appliances that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, or collection of information which could provide or which could allow the identification of individuals or the inference of their behaviour should not be allowed.

(77) In order to help to facilitate the verification of compliance with ecodesign requirements, including to facilitate conformity assessment and market surveillance, the Commission should be empowered to require, where duly justified, that supply chain actors provide, free of charge, information on what they supply, such as the quantity and type or chemical composition of materials used or the production process employed, or information on the conditions of the provision of their services. It should also be possible to allow manufacturers to have access to the documents containing such information or to the actual facilities of the supply chain actors so that they can access directly the necessary information if the supply chain actors do not provide the information requested within a reasonable time. The Commission should also be empowered to enable notified bodies and national authorities to verify the accuracy of the information related to the activities of the supply chain actors.

(78) In order to ensure the effective and harmonised application of ecodesign requirements set under this Regulation, including on aspects such as energy use or efficiency, durability and reliability, and recycled content, compliance with those requirements should be measured using reliable, accurate and reproducible methods that take into account the generally recognised state-of-the-art methods. Delegated acts setting ecodesign requirements for products should as a rule include the specifications for tests, measurements or calculations needed to establish or verify compliance. In addition, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by requiring the use of digital tools reflecting applicable calculation requirements, in order to ensure their harmonised application.

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(79) In order to ensure that ecodesign requirements achieve their intended effects, this Regulation should set out comprehensive and overarching provisions which are applicable to all products covered by ecodesign requirements and prohibit the circumvention of such requirements. Therefore, any practice leading to an unjustified alteration of the product's performance during compliance testing, or within a short period after putting the product into service, leading to a declared performance that misrepresents the product's actual performance while in use should be prohibited.

(80) Where appropriate, it should be possible for delegated acts setting ecodesign requirements to refer to the use of standards to establish or verify compliance. In order to ensure that there are no barriers to trade on the internal market, such standards should be harmonised at Union level. Once a reference to such standards has been adopted in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council ([46]) and published in the *Official Journal of the European Union*, products in conformity with such standards should be considered in conformity with ecodesign requirements adopted pursuant to this Regulation to the extent that they are covered by the relevant harmonised standards. Similarly, methods for tests, measurement or calculation that are in conformity with harmonised standards should be considered in conformity with the requirements for test, measurement and calculation methods set out in the relevant delegated acts laying down ecodesign requirements, to the extent that they are covered by the relevant harmonised standards.

(81) The current Union standardisation framework, which is based on the New Approach principles set out in Council Resolution of 7 May 1985 on a new approach to technical harmonization and standards ([47]) and on Regulation (EU) No 1025/2012, represents the framework by default to elaborate standards that provide for a presumption of conformity with the relevant requirements set out in this Regulation. In the absence of relevant references to harmonised standards, the Commission should be able to adopt implementing acts establishing common specifications as an exceptional fall-back solution to facilitate compliance with ecodesign requirements by the manufacturer, for instance when the standardisation process is blocked due to a lack of consensus between stakeholders or where there are delays in establishing a harmonised standard and the prescribed deadline cannot be respected. Such delays could for example occur when the required quality is not reached. In addition, recourse to this solution should be possible where the Commission has restricted or withdrawn the references to relevant harmonised standards in line with Regulation (EU) No 1025/2012. Compliance with common specifications should also give rise to the presumption of conformity. In order to ensure efficiency, the Commission should involve relevant stakeholders in the process of establishing the common specifications that cover the ecodesign requirements adopted pursuant to this Regulation.

(82) In order to enable economic operators to demonstrate, and competent authorities to verify, that products made available on the market comply with the ecodesign requirements adopted pursuant to this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by laying down conformity

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assessment procedures that are appropriate and proportionate to the nature of the product concerned and of the product parameters regulated. To ensure consistency with other Union law, the conformity assessment procedures should be chosen from among those of the internal production control module included in this Regulation and of the modules included in Decision No 768/2008/EC of the European Parliament and of the Council ([48]), ranging from the least stringent to the most stringent. To further ensure that the applicable module is appropriate and proportionate to the nature of the product concerned and of the product parameters regulated, the Commission should, where necessary, adapt the module chosen accordingly.

(83) Manufacturers should draw up an EU declaration of conformity to provide information on the conformity of products with this Regulation. Manufacturers could also be required by other Union law to draw up an EU declaration of conformity. To ensure effective access to information for market surveillance purposes, a single EU declaration of conformity should be drawn up in respect of all Union law. To reduce the administrative burden on economic operators, it should be possible for that single EU declaration of conformity to be a dossier made up of relevant individual EU declarations of conformity.

(84) Regulation (EC) No 765/2008 of the European Parliament and of the Council ([49]) lays down rules on the accreditation of conformity assessment bodies and sets out general principles governing the CE marking and its relationship to other markings. That Regulation should be applicable to products covered by this Regulation in order to ensure that products benefiting from the free movement of goods within the Union fulfil requirements providing a high level of protection of public interests such as human health, safety and the environment. Where ecodesign requirements have been adopted for a product, the CE marking should indicate that product’s conformity with this Regulation and the ecodesign requirements adopted pursuant to it, insofar as they relate to the product. Considering that this Regulation provides for the setting of ecodesign requirements for a large range of products, the delegated acts setting those requirements should set out rules on conformity marking in relation to ecodesign requirements in order to ensure consistency with requirements under Union law applicable to the products covered, prevent confusion with other markings and minimise the administrative burden on economic operators.

(85) Some of the conformity assessment modules laid down in Decision No 768/2008/EC require the intervention of conformity assessment bodies. In order to ensure uniform conditions for the implementation of this Regulation, those bodies should be notified to the Commission by Member State authorities.

(86) To ensure a consistent level of quality in the performance of conformity assessment, it is necessary to set requirements for notifying authorities involved in the assessment, notification and monitoring of notified bodies. In particular, Member States should ensure that the notifying authority is objective and impartial with regard to its activity. Furthermore, notifying authorities should be required to safeguard the confidentiality of the information they obtain, but should nonetheless be able to exchange information on notified bodies with national authorities, the notifying authorities of other Member States and the Commission to ensure consistency in the

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conformity assessment. To effectively establish and monitor the competence and independence of applicant bodies, notifying authorities should assess only the specific legal body applying for notification, not taking into account the credentials of parent or sister companies. For the same reason, notifying authorities should assess applicant bodies in relation to all relevant requirements and conformity assessment tasks, relying on harmonised standards for the requirements and tasks covered by those standards.

(87) Given their central role in ensuring the reliability of conformity assessments in relation to ecodesign requirements, it is essential that notifying authorities have a sufficient number of competent personnel and sufficient funding at their disposal for the proper performance of their tasks.

(88) It is essential that all notified bodies perform their functions to the same level and under conditions of equal competition and autonomy. Therefore, requirements should be set for conformity assessment bodies wishing to obtain the status of notified body in order to provide conformity assessment activities. Those requirements should continue to apply in order to ensure that the competence of the notified body is maintained. To ensure its autonomy, the notified body and the staff it employs should be required to maintain independence from economic operators in the value chain of the products in relation to which it has been notified and from other companies, including business associations and parent and sister companies, subsidiaries and subcontractors.

(89) If a conformity assessment body demonstrates conformity with the criteria laid down in harmonised standards, it should be presumed to comply with the corresponding requirements set out in this Regulation.

(90) Conformity assessment bodies frequently subcontract parts of their activities linked to the assessment of conformity or have recourse to a subsidiary. To ensure that products placed on the Union market comply with ecodesign requirements, conformity assessment subcontractors and subsidiaries should fulfil the same requirements as notified bodies in relation to the performance of conformity assessment tasks under this Regulation. To ensure that that is the case, relevant notified bodies should establish procedures for the on-going monitoring of the competence, activities and performance of their subcontractors or subsidiaries, such as through a qualification matrix.

(91) In order for notifying authorities to establish and monitor the competence and independence of applicant bodies effectively, the notified bodies should be and remain autonomous. Therefore, certain activities and decision-making processes, both regarding the conformity assessment of products and other activities internal to the notified body, should exclusively be carried out by the individual notified body itself.

(92) To facilitate the process of establishing and monitoring the competence and independence of applicant bodies, applicant bodies should provide a description of how their relevant personnel and the status and tasks of those personnel correspond to the conformity assessment tasks in relation to which those bodies intend to be notified, such as in the form of a qualification matrix, thereby enabling the notifying authority to more effectively assess the adequacy of staffing and the

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continued autonomy of the notified bodies. Notified bodies should ensure that the personnel carrying out different conformity assessment tasks are rotated.

(93)Since the services offered by notified bodies in a Member State might relate to products made available on the market throughout the Union, it is appropriate to give the other Member States and the Commission the opportunity to raise objections concerning a notified body.

(94)In the interests of facilitating and accelerating the conformity assessment procedure, and to ensure equal treatment of economic operators, it is crucial that the notified bodies apply the conformity assessment procedures consistently and without creating an unnecessary burden for economic operators.

(95)Prior to taking a final decision on whether a product can be granted a conformity certificate, the economic operator that wishes to place that product on the market should be allowed to supplement the relevant documentation only once. This limitation is necessary to ensure that notified bodies are not able to assist manufacturers in making changes until conformity is achieved, as that would mean that the service provided resembles a consulting service and could in practice dilute the public interest nature of notified bodies' tasks. Where appropriate, notified bodies should also be able to restrict, suspend or withdraw any certificates or approval decisions.

(96)To facilitate the identification and resolution of cases of non-conformity of notified bodies, manufacturers or products, notified bodies should proactively forward relevant information at their disposal to notifying authorities or market surveillance authorities.

(97)It is essential to ensure efficient exchange of information between notified bodies and market surveillance authorities, including from other Member States. To that end, notifying authorities and notified bodies should ensure follow-up to requests for information from market surveillance authorities.

(98)The Commission should enable appropriate coordination and cooperation between notified bodies. To ensure harmonised application of ecodesign requirements, notified bodies should discuss and coordinate on topics of possible divergence. In that process, they should take into account any relevant guidance and recommendations issued by the competent technical committees of the European standardisation bodies.

(99)In order to incentivise consumers to make sustainable choices, in particular when the most sustainable products are not affordable enough, mechanisms such as eco-vouchers and green taxation could be provided for. When Member States decide to make use of incentives to reward the best-performing products, they should do so by targeting those incentives at the highest two populated classes of performance that were set by the delegated acts adopted pursuant to this Regulation, not necessarily taken cumulatively, in the event that classes of performance are set in relation to more than one parameter. For energy-related products covered by Regulation (EU) 2017/1369 or for tyres covered by labelling requirements with regard to fuel efficiency and other parameters under Regulation (EU) 2020/740 of the European Parliament and of the Council ([50]), the criteria set under those two instruments should apply instead of those under this Regulation.

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However, Member States should not be able to prohibit the placing on the market of a product based on its class of performance. The introduction of Member State incentives should be without prejudice to the application of the Union's State aid rules.

(100) Public procurement amounts to 14 % of the Union's GDP. To contribute to the objective of reaching climate neutrality, improving energy and resource efficiency and transitioning to a circular economy that protects public health and biodiversity, by ensuring that there is sufficient demand for more environmentally sustainable products, contracting authorities and contracting entities should, where appropriate, align their procurement with specific green public procurement requirements. Compared to a voluntary approach, mandatory green public procurement requirements will ensure that the leverage of public spending to boost demand for better performing products is maximised. It is important that Member States provide assistance to national contracting authorities to upskill and reskill staff in charge of green public procurement. Those green public procurement requirements should be minimum requirements, meaning that contracting authorities and contracting entities should be able to set additional and more demanding requirements. Those requirements should be transparent, objective and non-discriminatory. The public procurement procedure should be conducted by contracting authorities and contracting entities in compliance with Directives 2014/24/EU ([51]) and 2014/25/EU ([52]) of the European Parliament and of the Council, and applicable sectoral legislation, as well as with the Union's international commitments, including the Government Procurement Agreement and other international agreements by which the Union is bound. Those requirements are without prejudice to the possibility for contracting authorities and contracting entities to rely on derogations or exemptions regarding public contracts set out in Union law, in particular Directives 2014/24/EU and 2014/25/EU. The requirements set for specific product groups should be complied with not only when directly procuring those products in public supply contracts but also in public works or public services contracts, where those products will be used for activities constituting the subject matter of those contracts. Those requirements should be set in relation to the product aspects addressed in the delegated act regulating the products in question. As part of those requirements, the Commission might set out minimum mandatory technical specifications requiring products to comply with the best possible performance levels as set out in the relevant delegated acts, including where available with the two highest classes of performance or scores. As a result, for example, it would be mandatory for contracting authorities and contracting entities to require that the tenderers' products meet specific carbon footprint requirements. In compliance with the public procurement framework, those minimum mandatory technical specifications should avoid artificially restricting competition and avoid favouring a specific economic operator. The Commission might also set up minimum mandatory award criteria including assigning a specific weighting, between 15 % and 30 %, to those criteria for the purpose of ensuring that they can significantly influence the choice of products in favour of those that are the most environmentally sustainable. As a result, for example, it would be mandatory for contracting authorities and contracting entities to give the recycled content of the products in question a minimum weighting between 20 % and 30 %. As a consequence, contracting

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authorities and contracting entities, in the specific award procedure, would have the possibility of assigning a weighting higher than 30 %, but not lower than 20 % to recycled content. Award criteria should be preferred to technical specifications when there are uncertainties about the availability or cost of the best performing products in the Union market. The Commission might also set contract performance conditions and targets according to which, for instance, contracting authorities and contracting entities should award at least 50 % of their annual procurement of certain products to those with more than 70 % of recyclable material. As a result, Member States could still set higher targets for the procurement of those products. When developing implementing acts and in particular when considering the economic feasibility for contracting authorities and contracting entities, the Commission should take into account the best possible environmental products and solutions available on the market, the effects of the requirements on competition and the fact that different contracting authorities and contracting entities in different Member States might have different budgetary capacities or other constraints such as with regard to climate conditions or network infrastructure.

(101) Member States should not be precluded from introducing or maintaining national measures on green public procurement regarding product groups for which public procurement requirements under this Regulation have not yet been set, or from introducing stricter national requirements regarding products which fall within the scope of implementing acts setting out green public procurement requirements, provided such measures and requirements are in line with Union law.

(102) Effective enforcement of ecodesign requirements is essential to ensure equal competition in the Union market and to ensure that this Regulation’s expected benefits and contribution to achieving the Union’s climate, energy and circularity objectives are achieved. Therefore, Regulation (EU) 2019/1020, which sets out a horizontal framework for market surveillance and control of products entering the Union market, should apply to products for which ecodesign requirements are set pursuant to this Regulation, insofar as there are no specific provisions with the same objective, nature or effect in this Regulation. In addition, to lower the problematic levels of non-compliance of products covered by implementing measures adopted under Directive 2009/125/EC, to more effectively prevent non-compliance with future ecodesign requirements, and taking account of the broader scope and increased ambition of this Regulation compared to Directive 2009/125/EC, this Regulation should contain specific additional rules complementing the framework created by Regulation (EU) 2019/1020. Those rules should be aimed at further strengthening the planning, coordination and support of Member State efforts and should provide additional tools for the Commission to help ensure sufficient action is taken by market surveillance authorities to prevent non-compliance with ecodesign requirements.

(103) Besides market surveillance authorities, customs authorities also have an important role to play in enforcing this Regulation with regard to imported goods and can rely on Council Regulation (EC) No 515/97 ([53]) for that purpose.

(104) To ensure that appropriate checks are performed on an adequate scale in relation to ecodesign requirements, in their national market surveillance strategy provided for in Article 13 of

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Regulation (EU) 2019/1020, Member States should draw up a dedicated section listing the products or requirements they have identified as priorities for market surveillance under this Regulation and the activities planned to reduce or bring to an end non-compliance of relevant products with relevant ecodesign requirements.

(105) Priorities for market surveillance under this Regulation should be identified based on objective criteria such as the levels of non-compliance observed or the environmental impacts resulting from non-compliance. The activities planned to address those priorities should, in turn, be proportionate to the facts leading to their prioritisation.

(106) Based on data entered into the information and communication system referred to in Regulation (EU) 2019/1020, the Commission should draw up a report containing information on the nature and number of checks performed, on the levels of non-compliance identified and on the nature and severity of penalties imposed in relation to non-compliance with ecodesign requirements over the four preceding calendar years. The report should contain a comparison of Member States' activities with the activities planned, indicative benchmarks and a list of priorities for market surveillance authorities. When considering the adoption of implementing acts in accordance with Article 11(4) of Regulation (EU) 2019/1020, the Commission should take into account the results of the reports that it has drawn up pursuant to this Regulation on the basis of the information entered by market surveillance authorities into the information and communication system referred to in Regulation (EU) 2019/1020, and should address, as appropriate, the products or product groups covered by delegated acts adopted pursuant to this Regulation, in relation to which specific risks or serious breaches have been continuously identified, in order to ensure a high level of compliance with this Regulation.

(107) To further strengthen coordination of market surveillance authorities, the administrative cooperation group ('ADCO') set up pursuant to Regulation (EU) 2019/1020 should, for the purposes of identifying the products or requirements identified as priorities for market surveillance under this Regulation and the activities planned to reduce or bring to an end non-compliance with this Regulation, meet at regular intervals and identify common priorities for market surveillance to be taken into account in Member States' national market surveillance strategies, priorities for the provision of Union support, and requirements adopted pursuant to this Regulation that are applied or interpreted differently, thus leading to market distortion.

(108) To support Member States in their efforts to ensure sufficient action is taken to prevent non-compliance with ecodesign requirements, the Commission should, where relevant, make use of the support measures provided for in Regulation (EU) 2019/1020. The Commission should organise and, where appropriate, finance joint market surveillance and testing projects in areas of common interest, joint investments in market surveillance capacities and common training programmes for the staff of market surveillance authorities, customs authorities, notifying authorities and notified bodies. In addition, the Commission should draw up guidelines on how to apply and enforce requirements adopted pursuant to this Regulation where necessary to ensure their harmonised application.

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(109)Products should be placed on the market only if they do not present a risk. In order to better align with the specific nature of ecodesign requirements and to ensure that the focus of market surveillance efforts is on non-compliance with such requirements, a product presenting a risk should, for the purposes of this Regulation, be defined as a product that, by not complying with an ecodesign requirement or because a responsible economic operator does not comply with an ecodesign requirement, could adversely affect the environment or other public interests protected by that requirement. That more specific definition should be used when applying Articles 19 and 20 of Regulation (EU) 2019/1020.

(110)A procedure should exist under which interested parties are informed of measures intended to be taken with regard to products presenting a risk. It should also allow market surveillance authorities in the Member States, in cooperation with the relevant economic operators, to act at an early stage with regard to such products. To that end, the safeguard clause currently included in Directive 2009/125/EC should be updated and aligned with the safeguard procedures included in other Union harmonisation legislation and in Decision No 768/2008/EC.

(111)The market surveillance authorities should have the right to require economic operators to take corrective action on the basis of findings that either a product is not compliant with ecodesign requirements or that the economic operator has infringed the rules on the placing or making available on the market of products or other rules addressed to it.

(112)When adopting delegated acts pursuant to Article 290 TFEU, it is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ([54]). In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(113)In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards: (a) establishing procedures to issue and verify the digital credentials for access to the data stored in the digital product passport by economic operators and other relevant actors based on their respective rights; (b) specifying implementation arrangements for the interconnection of the registry and the EU Customs Single Window Certificates Exchange System, including the communication of the unique registration identifier; (c) establishing common requirements for the layout of labels; (d) adopting and updating a list of self-regulation measures established as valid alternatives to a delegated act adopted pursuant this Regulation; (e) setting out the details and format for the disclosure of the information on unsold consumer products that have been discarded; (f) establishing, amending or repealing common specifications covering ecodesign requirements, the essential requirements for digital product passports or the requirements for test, measurement or calculation methods; (g) setting minimum requirements for the award of public contracts for the purchase of products

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covered by ecodesign requirements, or for works or services where those products are used for activities constituting the subject matter of those contracts and (h) deciding, pursuant to the Union safeguard procedure, whether a national measure is justified or not. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ([55]).

(114) To enhance trust in products placed on the market, in particular as regards the compliance of products with ecodesign requirements, the public needs to be sure that economic operators placing non-compliant products on the market will be subject to penalties. It is therefore necessary that Member States lay down rules on penalties applicable to infringements of this Regulation and ensure that those rules are implemented. The penalties provided for should be effective, proportionate and dissuasive and should at least include fines and time-limited exclusion from public procurement procedures. Without prejudice to Member States' procedural autonomy and to the discretion of competent authorities and judges to impose appropriate penalties in the individual cases, common non-exhaustive criteria should be established for determining the types and levels of penalties to be imposed in the event of infringements of this Regulation, to facilitate more consistent application of penalties. Those criteria should include, inter alia, the nature, gravity and duration of the infringement, the financial situation of the natural or legal person held responsible, as indicated for example by the total turnover or the annual income, and the economic benefits derived from and generated by the infringement, insofar as those benefits can be determined.

(115) The Commission should carry out an evaluation of this Regulation. Pursuant to paragraph 22 of the Interinstitutional Agreement on Better Law-Making, that evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and value added and should provide the basis for impact assessments of possible further measures. The Commission should submit to the European Parliament, to the Council, to the European Economic and Social Committee, and to the Committee of the Regions a report on the implementation of this Regulation and its impact on the environmental sustainability of products and the functioning of the internal market. Where appropriate, the report should be accompanied by a proposal to amend this Regulation.

(116) It is appropriate that the Commission assess the potential benefits of setting requirements also in relation to social aspects of products. As part of that assessment, the Commission should consider to what extent those requirements could complement Union law, thereby addressing adverse impacts on human and social rights arising from companies' operations and from products. The Commission should therefore carry out an evaluation within four years of the date of entry into force of this Regulation on the potential benefits of inclusion of social sustainability requirements within the scope of this Regulation. The Commission should submit to the European Parliament, to the Council, the European Economic and Social Committee, and to the Committee of the Regions a report on the evaluation. Where appropriate, the report should be accompanied by a legislative proposal to amend this Regulation.

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(117) To facilitate private enforcement of this Regulation, consumers who have suffered damage due to the non-compliance of a product with ecodesign requirements should have the right to claim compensation for that damage from the product's manufacturer or, if the manufacturer is not established in the Union, the importer or the authorised representative of the manufacturer, or, if none of those economic operators is established in the Union, the fulfilment service provider. Such right to compensation should be without prejudice to other remedies available to consumers under Union law, such as the remedies against the seller in the event of a lack of conformity of the goods sold, in accordance with Directive (EU) 2019/771 of the European Parliament and of the Council ([56]). Furthermore, Member States should not be prevented from maintaining or introducing rights for consumers to other remedies in accordance with national law, such as the repair or replacement of products infringing ecodesign requirements.

(118) Consumers should be entitled to enforce their rights in relation to the obligations imposed on manufacturers and, where applicable, importers, authorised representatives and fulfilment service providers under this Regulation through representative actions in accordance with Directive (EU) 2020/1828 of the European Parliament and of the Council ([57]). For that purpose, this Regulation should provide that Directive (EU) 2020/1828 is applicable to representative actions concerning infringements of this Regulation by manufacturers and, where applicable, by importers, authorised representatives and fulfilment service providers that qualify as traders under Article 3, point (2), of that Directive which harm or could harm the collective interests of consumers. Annex I to that Directive should therefore be amended accordingly. It is for the Member States to ensure that that amendment is reflected in their transposition measures adopted in accordance with that Directive, although the adoption of national transposition measures in that regard is not a condition for the applicability of that Directive to those representative actions. The applicability of that Directive to the representative actions brought against infringements by manufacturers and, where applicable, by importers, authorised representatives and fulfilment service providers of provisions of this Regulation which harm or could harm the collective interests of consumers should start from the date of entry into force of this Regulation.

(119) It is necessary that ecodesign requirements apply to the widest possible range of products, and not only to energy-related products, and that the definition of ecodesign requirements is widened to encompass all aspects of circularity. It is also necessary to align this Regulation to the New Legislative Framework set out in Regulation (EC) No 765/2008 and Decision No 768/2008/EC, and to improve the provisions related to market surveillance. Directive 2009/125/EC should therefore be replaced. In order to ensure legal certainty for all economic operators from the date of entry into force of this Regulation and to guarantee a level playing-field for businesses operating on the internal market, the provisions setting out transparency obligations related to the discarding of unsold consumer products, circumvention, and market surveillance should be of uniform application for all operators across the Union. Directive 2009/125/EC should therefore be replaced by a Regulation.

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(120) The Ecodesign and Energy Labelling Working Plan 2022-2024, set out in the Communication of the Commission of 4 May 2022, identified the political priorities for work on energy-related products. When the provisions of this Regulation take effect, preparatory work assessing the feasibility of ecodesign requirements pursuant to Directive 2009/125/EC will be at a substantially advanced stage for photovoltaic panels, space and combination heaters, water heaters, solid fuel local space heaters, air conditioners including air-to-air heat pumps and comfort fans, solid fuel boilers, air heating and cooling products, ventilation units, vacuum cleaners, cooking appliances, water pumps, industrial fans, circulators, external power supplies, computers, servers and data storage products, power transformers, professional refrigeration equipment and imaging equipment. Thanks to that preparatory work, numerous areas where energy and material can be saved have been identified, and extensive consultations of citizens and stakeholders have taken place. Restarting that preparatory work under this Regulation would considerably delay the adoption of requirements concerning energy and material savings for those products. In order to ensure that the preparatory work is not lost, it is therefore necessary to provide for transitional rules allowing implementing measures on those products to be adopted pursuant to Directive 2009/125/EC by 31 December 2026. In addition, and in order to ensure the proper functioning of implementing measures adopted under Article 15 of Directive 2009/125/EC, necessary amendments addressing technical issues should be adopted if relevant in accordance with the relevant provisions of that Directive by 31 December 2030.

(121) In order to ensure legal certainty and continuity for products placed on the market or put into service in conformity with implementing measures adopted pursuant to Directive 2009/125/EC, in its version applicable on the date of entry into force of this Regulation, those measures should remain in force beyond that date, and until repealed by a delegated act adopted pursuant to this Regulation. For the same reasons, a number of provisions of Directive 2009/125/EC should continue to have full effect in the context of applying those implementing measures. This concerns in particular provisions of Directive 2009/125/EC excluding means of transport for goods or persons from its scope, establishing definitions relevant for implementing measures, setting economic operators' responsibilities in relation to products placed on the market, specifying the details of the relevant conformity assessment procedures and the EC declaration of conformity, establishing a presumption of conformity for products which have been awarded the EU Ecolabel and enabling necessary action in relation to harmonised standards. Given the importance of ensuring the free movement of goods, banning practices illegally altering products' performance in order to reach a more favourable result and ensuring proper enforcement of ecodesign requirements, relevant provisions of this Regulation should be applicable to energy-related products placed on the market pursuant to implementing measures under Directive 2009/125/EC.

(122) Since the objectives of this Regulation, namely to improve the environmental sustainability of products and to ensure the free movement in the internal market of products for which ecodesign requirements are set, cannot be sufficiently achieved by the Member States, but can rather, by reason of their scale and effects, only be achieved at Union level, the Union may adopt measures,

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in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Regulation establishes a framework for the setting of ecodesign requirements that products have to comply with to be placed on the market or put into service, with the aim of improving the environmental sustainability of products in order to make sustainable products the norm and to reduce the overall carbon footprint and environmental footprint of products over their life cycle, and of ensuring the free movement of sustainable products within the internal market.

This Regulation also establishes a digital product passport, provides for the setting of mandatory green public procurement requirements and creates a framework to prevent unsold consumer products from being destroyed.

2. This Regulation applies to any physical goods that are placed on the market or put into service, including components and intermediate products. However, it does not apply to:

(a) food as defined in Article 2 of Regulation (EC) No 178/2002;

(b) feed as defined in Article 3(4) of Regulation (EC) No 178/2002;

(c) medicinal products as defined in Article 1(2) of Directive 2001/83/EC;

(d) veterinary medicinal products as defined in Article 4(1) of Regulation (EU) 2019/6;

(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 as referred to in Article 2(1) of Regulation (EU) No 167/2013, in Article 2(1) of Regulation (EU) No 168/2013 and in Article 2(1) of Regulation (EU) 2018/858, in respect of those product aspects for which requirements are set under sector-specific Union legislative acts applicable to those vehicles.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

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(1) ‘product’ means any physical goods that are placed on the market or put into service;

(2) ‘component’ means a product intended to be incorporated into another product;

(3) ‘intermediate product’ means a product that requires further manufacturing or transformation such as mixing, coating or assembling to make it suitable for end-users;

(4) ‘energy-related product’ means any product that has an impact on energy consumption during use;

(5) ‘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;

(6) ‘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;

(7) ‘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;

(8) ‘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 Annex I;

(9) ‘information requirement’ means an obligation for a product to be accompanied by information as specified in Article 7(2);

(10) ‘supply chain’ means all upstream activities and processes of the product’s value chain, up to the point where the product reaches the customer;

(11) ‘value chain’ means all activities and processes that are part of the life cycle of a product, as well as its possible remanufacturing;

(12) ‘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;

(13) ‘end-of-life’ means the life cycle stage that begins when a product is discarded and ends when the waste material of the product is returned to nature or enters another product’s life cycle;

(14) ‘environmental impact’ means any change to the environment, whether adverse or beneficial, wholly or partially resulting from a product during its life cycle;

(15) ‘class of performance’ means a range of performance levels in relation to one or more product parameters referred to in Annex I, which is established based on a common methodology for the product or product group, ordered in such a way as to allow for product differentiation;

(16) ‘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;

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(17) ‘upgrading’ means actions carried out to enhance the functionality, performance, capacity, safety or aesthetics of a product;

(18) ‘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 at the time of the placing of the product on the market;

(19) ‘maintenance’ means one or more actions carried out to keep a product in a condition where it is able to fulfil its intended purpose;

(20) ‘repair’ means one or more actions carried out to return a defective product or waste to a condition where it fulfils its intended purpose;

(21) ‘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;

(22) ‘durability’ means the ability of a product to maintain over time its function and performance under specified conditions of use, maintenance and repair;

(23) ‘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;

(24) ‘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 established by Recommendation (EU) 2021/2279 or other scientific methods developed by international organisations, widely tested in collaboration with different industry sectors and adopted or implemented by the Commission in other Union law;

(25) ‘carbon footprint’ means the sum of greenhouse gas emissions and greenhouse gas removals in a product system, expressed as CO_2 equivalents and based on a life cycle assessment using the single impact category of climate change;

(26) ‘material footprint’ refers to the total amount of raw materials extracted to meet final consumption demands;

(27) ‘substance of concern’ means a substance that:

(a) meets the criteria laid down in Article 57 of Regulation (EC) No 1907/2006 and is identified in accordance with Article 59(1) of that Regulation;

(b) is classified in Part 3 of Annex VI to Regulation (EC) No 1272/2008 in one of the following hazard classes or hazard categories:

(i) carcinogenicity categories 1 and 2;

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(ii) germ cell mutagenicity categories 1 and 2;

(iii) reproductive toxicity categories 1 and 2;

(iv) endocrine disruption for human health categories 1 and 2;

(v) endocrine disruption for the environment categories 1 and 2;

(vi) persistent, mobile and toxic or very persistent, very mobile properties;

(vii) persistent, bioaccumulative and toxic or very persistent, very bioaccumulative properties;

(viii) respiratory sensitisation category 1;

(ix) skin sensitisation category 1;

(x) hazardous to the aquatic environment — categories chronic 1 to 4;

(xi) hazardous to the ozone layer;

(xii) specific target organ toxicity — repeated exposure categories 1 and 2;

(xiii) specific target organ toxicity — single exposure categories 1 and 2;

(c) is regulated under Regulation (EU) 2019/1021; or

(d) negatively affects the reuse and recycling of materials in the product in which it is present;

(28) ‘digital product passport’ means a set of data specific to a product that includes the information specified in the applicable delegated act adopted pursuant to Article 4 and that is accessible via electronic means through a data carrier in accordance with Chapter III;

(29) ‘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;

(30) ‘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;

(31) ‘unique operator identifier’ means a unique string of characters for the identification of an actor involved in a product’s value chain;

(32) ‘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 with a right to access those data under this Regulation or other Union law;

(33) ‘unique facility identifier’ means a unique string of characters for the identification of locations or buildings involved in a product’s value chain or used by actors involved in a product’s value chain;

(34) ‘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

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reuse, including refurbishment or remanufacturing operations;

(35) ‘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;

(36) ‘consumer product’ means any product, excluding components and intermediate products, primarily intended for consumers;

(37) ‘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 in accordance with Article 9 of Directive 2011/83/EU or, where applicable, during any longer withdrawal period provided by the trader;

(38) ‘self-regulation measure’ means a voluntary agreement or a code of conduct, concluded by economic operators on their own initiative, which they are responsible for enforcing;

(39) ‘making available on the market’ means any supply of a product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;

(40) ‘placing on the market’ means the first making available of a product on the Union market;

(41) ‘putting into service’ means the first use, for its intended purpose, in the Union, of a product;

(42) ‘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;

(43) ‘authorised representative’ means any natural or legal person established in the 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 this Regulation;

(44) ‘importer’ means any natural or legal person established in the Union that places a product from a third country on the Union market;

(45) ‘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;

(46) ‘economic operator’ means the manufacturer, the authorised representative, the importer, the distributor, the dealer and the fulfilment service provider;

(47) ‘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, and includes waste management operators, refurbishers, repairers, manufacturers or distributors of repair equipment, tools or spare parts, as well as publishers of technical information, operators offering inspection and testing services and operators offering training for installers, manufacturers and repairers of equipment;

(48) ‘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;

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(49)‘technical specification’ means a document that prescribes technical requirements to be fulfilled by a product, process or service;

(50)‘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 providing for its affixing;

(51)‘conformity assessment’ means the process demonstrating whether the ecodesign requirements set out in the relevant delegated acts adopted pursuant to Article 4 have been fulfilled;

(52)‘conformity assessment body’ means a body that performs conformity assessment activities including calibration, testing, certification and inspection;

(53)‘notified body’ means a conformity assessment body notified in accordance with Chapter IX;

(54)‘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 delegated acts adopted pursuant to Article 4;

(55)‘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;

(56)‘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;

(57)‘product presenting a risk’ means a product that, by not complying with an ecodesign requirement set in or pursuant to this Regulation other than those listed in Article 71(1), could adversely affect the environment or other public interests protected by that requirement;

(58)‘product presenting a serious risk’ means a product presenting a risk for which, based on an assessment, the degree of the relevant non-compliance or the associated harm is considered to require rapid intervention by the market surveillance authorities, including cases where the effects of the non-compliance are not immediate.

The definitions of ‘SMEs’, ‘small enterprises’ and ‘microenterprises’ in Article 2(1), (2) and (3), respectively, of Annex I to Commission Recommendation 2003/361/EC ([58]) apply.

The definitions of ‘substance’ and ‘mixture’ in Article 3, points (1) and (2), respectively, of Regulation (EC) No 1907/2006 apply.

The definitions of ‘accreditation’ and ‘national accreditation body’ in Article 2, points (10) and (11), respectively, of Regulation (EC) No 765/2008 apply.

The definitions of ‘waste’, ‘hazardous waste’, ‘reuse’, ‘recovery’, ‘preparing for reuse’ and ‘recycling’ in Article 3, points (1), (2), (13), (15), (16) and (17), respectively, of Directive 2008/98/EC apply.

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The definition of ‘harmonised standard’ in Article 2, point (1) (c), of Regulation (EU) No 1025/2012 applies.

The definitions of ‘contracting authorities’ in Article 2, point (1), of Directive 2014/24/EU and of ‘contracting entities’ in Article 4(1) of Directive 2014/25/EU apply. ‘Public contracts’ means contracts covered by Directives 2014/24/EU and 2014/25/EU.

The definition of ‘processing’ in Article 3, point (2), of Regulation (EU) 2018/1807 of the European Parliament and of the Council ([59]) applies.

The definition of ‘consumer’ in Article 2, point (2), of Directive (EU) 2019/771 applies.

The definitions of ‘market surveillance’, ‘market surveillance authority’, ‘fulfilment service provider’, ‘online interface’, ‘corrective action’, ‘end user’, ‘recall’, ‘withdrawal’, ‘customs authorities’ and ‘release for free circulation’ in Article 3, points (3), (4), (11), (15), (16), (21), (22), (23), (24) and (25), respectively, of Regulation (EU) 2019/1020 apply.

Article 3

Free movement

1. Products shall only be placed on the market or put into service if they comply with the ecodesign requirements applicable to those products, set out in the delegated acts adopted pursuant to Article 4.

2. Member States shall not prohibit, restrict or impede the placing on the market or putting into service of products that comply with the performance requirements set out in delegated acts adopted pursuant to Article 4 for reasons of non-compliance with national performance requirements relating to product parameters referred to in Annex I covered by performance requirements included in such delegated acts.

Member States shall not prohibit, restrict or impede the placing on the market or putting into service of products that comply with the information requirements set out in delegated acts adopted pursuant to Article 4 for reasons of non-compliance with national information requirements relating to product parameters referred to in Annex I covered by information requirements included in such delegated acts.

3. Notwithstanding paragraph 2 of this Article, Member States shall not be precluded from setting minimum energy performance requirements in accordance with Article 5 of Directive (EU) 2024/1275 and system requirements in accordance with Article 13 of that Directive.

4. Member States shall not prohibit, restrict or impede the placing on the market or putting into service of products for which a delegated act adopted pursuant to Article 4(2) establishes that no performance requirements, no information requirements or neither performance nor information requirements are to be set for one or more specific product parameters referred to in Annex I, on the grounds of non-compliance with national requirements relating to such parameters.

5. At trade fairs, exhibitions and similar events, Member States shall not prevent the showing of products that do not comply with requirements set in delegated acts adopted pursuant to Article 4,

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provided that a visible sign clearly indicates that such products do not comply with the requirements set in those delegated acts and that they are not for sale until they have been brought into conformity.

CHAPTER II

ECODESIGN REQUIREMENTS

Article 4

Empowerments to adopt delegated acts

1. The Commission is empowered to adopt delegated acts in accordance with Article 72 to supplement this Regulation by setting ecodesign requirements. Those delegated acts shall include at least the elements listed in Article 8. Such ecodesign requirements shall be set in accordance with Articles 5, 6 and 7 and Chapter III.

2. The empowerment referred to in paragraph 1 shall include the possibility of establishing that no performance requirements, no information requirements or neither performance nor information requirements are to be set for certain product parameters referred to in Annex I where a requirement related to those specific product parameters would have a negative impact on the ecodesign requirements considered for the product group concerned.

3. The empowerment referred to in paragraph 1 shall not include the possibility of adopting a delegated act that establishes that no ecodesign requirements are necessary for a product group.

4. In the delegated acts adopted pursuant to paragraph 1, the Commission shall provide economic operators with sufficient time to comply with the ecodesign requirements laid down in those delegated acts, particularly taking into consideration the needs of SMEs, in particular microenterprises. The date of application of a delegated act shall not be earlier than 18 months from its entry into force, except in duly justified cases for the whole act or for some specific requirements, or except in cases of partial repeal or amendment of delegated acts, where an earlier date of application may be set.

5. In the delegated acts referred to in paragraph 1 of this Article, the Commission shall supplement this Regulation by specifying the applicable conformity assessment procedures from either module A set out in Annex IV to this Regulation or one of the modules B to H1 set out in Annex II to Decision No 768/2008/EC, with the adaptations necessary in view of the product or ecodesign requirements concerned, in accordance with Article 43 of this Regulation.

Where different conformity assessment modules in Annex II to Decision 768/2008/EC are to be used pursuant to other Union law for the same product, the module provided for in the delegated acts referred to in paragraph 1 shall be used for the ecodesign requirement concerned.

When this Regulation, where appropriate, applies to a product group in a manner complementary to a Regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products (the ‘construction products Regulation’), the delegated act adopted pursuant to paragraph 1 shall specify the conformity assessment procedure, including, where

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appropriate, any systems provided for pursuant to a measure under the construction products Regulation, taking into account the characteristics of the product group, the relevant ecodesign requirements and the cost for economic operators.

6. The delegated acts adopted pursuant to paragraph 1 may, as appropriate in view of the specificities of the product group, include any of the following additional requirements:

(a) where necessary for effective market surveillance:

(i) that manufacturers, their authorised representatives or importers keep the technical documentation and the EU declaration of conformity for a period other than the 10 years referred to in Article 27(3), Article 28(2), point (a), or Article 29(7), as applicable, after the relevant product has been placed on the market or put into service taking into account the nature of the product or ecodesign requirements concerned;

(ii) that economic operators provide, upon request, market surveillance authorities with the information set out in Article 36(2), second subparagraph, for a period other than 10 years referred to therein after the relevant product has been supplied;

(iii) that manufacturers, their authorised representatives or importers make parts of the technical documentation related to the relevant product digitally available to the Commission or market surveillance authorities without a request being necessary, in accordance with Article 36(3);

(iv) that supply chain actors comply with the obligations listed in Article 38.

(b) that manufacturers, their authorised representatives or importers make available to the Commission information on the quantities of a product covered by the delegated acts referred to in paragraph 1 of this Article placed on the market or put into service, in accordance with Article 37(1);

(c) where necessary in order to ensure energy-efficient usage of products or to develop future ecodesign requirements:

(i) that products be able to measure the energy they consume or their performance in relation to other relevant product parameters referred to in Annex I while in use, in accordance with Article 37(2);

(ii) that manufacturers, their authorised representatives or importers collect non-personal in-use data referred to in point (i) and report to the Commission in accordance with Article 37(4);

(iii) that digital tools be used to calculate the performance of a product in relation to a product parameter referred to in Annex I, in accordance with Article 39(2);

(d) in order to ensure transparency about conformity with ecodesign requirements, rules on markings indicating conformity with ecodesign requirements, for products not subject to the requirement to affix the CE marking before being placed on the market or put into service, in accordance with Article 47.

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7. The first delegated act to be adopted under this Article shall not enter into force before 19 July 2025.

Article 5

Ecodesign requirements

1. In order to address environmental impacts and based on the product parameters referred to in Annex I, the ecodesign requirements in the delegated acts adopted pursuant to Article 4 shall be such as to improve the following product aspects (‘product aspects’) where those product aspects are relevant to the product group concerned:

(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;

(p) expected generation of waste.

2. Ecodesign requirements shall, where relevant, ensure based on the product parameters referred to in Annex I that products do not become prematurely obsolete, for reasons that include design choices by manufacturers, the use of components which are significantly less robust than other components, the impeded disassembly of key components, unavailable repair information or spare parts, software that no longer works once an operating system is updated or software updates that are not provided.

3. The Commission shall select or develop tools or methodologies, as necessary, for the setting of ecodesign requirements.

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4. Ecodesign requirements shall be set for a specific product group. They may be differentiated for any specific product that belongs to that specific product group.

5. Products whose sole purpose is to serve defence or national security shall be excluded from product groups.

6. The Commission may set ecodesign requirements also for those product groups or product aspects that have not been included in the working plan referred to in Article 18.

7. Where two or more product groups display one or more similarities allowing a product aspect to be effectively improved based on common information requirements or performance requirements, horizontal ecodesign requirements may be set for those product groups (‘horizontal ecodesign requirements’). When considering whether to set horizontal ecodesign requirements, the Commission shall also take into account the positive effects of those requirements towards reaching the objectives of this Regulation, in particular the ability to cover a wide range of product groups in the same delegated act. The Commission may supplement the horizontal ecodesign requirements through the setting of ecodesign requirements for a specific product group.

8. An ecodesign requirement may cover products falling within the scope of a self-regulation measure included in the list contained in the implementing act adopted pursuant to Article 21(3), in the event that the self-regulation measure does not address the product aspects covered by that ecodesign requirement.

9. Ecodesign requirements shall include, as appropriate to improve the specific product aspects, either or both of the following:

(a) performance requirements as set out in Article 6;

(b) information requirements as set out in Article 7.

10. When preparing ecodesign requirements, the Commission shall ensure consistency with other Union law and shall:

(a) take into account:

  (i) Union priorities for the climate, the environment, energy efficiency, resource efficiency and security, including a non-toxic circular economy, and other related Union priorities and targets;

  (ii) relevant Union law, including the extent to which it addresses the relevant product aspects;

  (iii) relevant international agreements;

  (iv) self-regulation measures;

  (v) relevant national environmental law;

  (vi) relevant European and international standards;

(b) carry out an impact assessment based on best available evidence and analyses, and where appropriate on additional studies and research results produced under Union funding programmes. The setting of ecodesign requirements concerning certain of the product aspects shall not be

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unduly delayed by uncertainties regarding the possibility of setting ecodesign requirements to improve other product aspects of that product. In the impact assessment, the Commission shall:

(i) indicate the methodology used;

(ii) ensure that all product aspects are analysed and that the depth of analysis of the product aspects is proportionate to their significance for the product concerned;

(iii) ensure that interdependencies between the different product aspects are analysed;

(iv) set out the changes expected in terms of environmental impacts, including quantified as a carbon footprint and an environmental footprint whenever possible;

(v) analyse the availability of feedstock for the refurbishment sector, where appropriate;

(vi) analyse any relevant impacts on human health;

(vii) consider the minimum level of performance of a product or a product group needed to achieve in the future the Union's priorities as listed in point (a)(i);

(c) take into consideration relevant technical information used as a basis for or derived from Union law or instruments, including Regulation (EC) No 66/2010, Directive 2010/75/EU, technical screening criteria adopted pursuant to Regulation (EU) 2020/852 and EU green public procurement criteria;

(d) take into consideration the protection of confidential business information;

(e) take into account the views expressed by the Ecodesign Forum referred to in Article 19 and the Member States Expert Group referred to in Article 20.

11. 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, in particular microenterprises;

(e) there shall be no proprietary technology imposed on manufacturers or other actors in the value chain;

(f) there shall be no disproportionate administrative burden on manufacturers or other actors in the value chain, including SMEs, in particular microenterprises.

12. Ecodesign requirements shall be verifiable. The Commission shall identify appropriate means of verification for specific ecodesign requirements, including direct checks of the product or on the basis

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of the technical documentation.

13. The Commission shall publish relevant studies and analyses, including the impact assessments referred to in paragraph 10, point (b), used in the setting of ecodesign requirements.

14. For each product group concerned by ecodesign requirements, the Commission shall determine, where relevant, which substances fall under the definition in Article 2(27), point (d), taking into account, at least, whether:

(a) based on standard technologies, the substances make the reuse, or recycling process more complicated, costly, environmentally impactful, or energy- or resource-demanding;

(b) the substances impair the technical properties or functionalities, the usefulness or the value of the recycled material coming from the product or products manufactured from that recycled material;

(c) the substances negatively impact aesthetic or olfactory properties of the recycled material.

Article 6

Performance requirements

1. Products shall comply with performance requirements related to the product aspects, as laid down in the delegated acts adopted pursuant to Article 4.

2. The performance requirements shall be based on the relevant product parameters referred to in Annex I and shall, as appropriate, include either or both of the following:

(a) minimum or maximum levels in relation to a specific product parameter or a combination thereof;

(b) non-quantitative requirements that aim to improve performance in relation to one or more of such product parameters.

3. Performance requirements based on the product parameter referred to in Annex I, point (f), shall not restrict, for reasons relating primarily to chemical safety, the presence of substances in products.

However, the setting of performance requirements shall also, where appropriate, reduce significant risks to human health or the environment.

4. When setting performance requirements, the Commission shall follow the procedure set out in Annex II.

Article 7

Information requirements

1. Products shall comply with information requirements related to the product aspects, as laid down in the delegated acts adopted pursuant to Article 4.

2. The information requirements shall:

(a) include, as a minimum, requirements related to the digital product passport set out in Chapter III and requirements related to substances of concern set out in paragraph 5;

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(b) as appropriate, also require products to be accompanied by:

(i) information on the performance of the product in relation to one or more of the product parameters referred to in Annex I, including a repairability score, a durability score, a carbon footprint or an environmental footprint;

(ii) information for customers and other actors on how to install, use, maintain and repair the product, in order to minimise its impact on the environment and to ensure optimum durability, on how to install third-party operating systems where relevant, as well as on collection for refurbishment or remanufacture, and on how to return or handle the product at end-of-life;

(iii) information for treatment facilities on disassembly, reuse, refurbishment, recycling, or disposal at end-of-life;

(iv) other information that could influence sustainable product choices for customers and the way the product is handled by parties other than the manufacturer in order to facilitate appropriate use, value-retaining operations and correct treatment at end-of-life;

(c) be clear, easily understandable and tailored to the particular characteristics of the product groups concerned and the intended recipients of the information.

An information requirement may be set for a specific product parameter irrespective of whether a performance requirement is set for that specific product parameter.

Where a delegated act contains horizontal ecodesign requirements, point (a) of this paragraph shall not apply.

3. Information requirements based on the product parameter set out in Annex I, point (f), shall not concern the labelling of substances or mixtures for reasons relating primarily to their hazards to health or the environment.

4. When setting the information requirements referred to in paragraph 2, point (b)(i), the Commission shall, where appropriate in view of the specificity of the product group, determine classes of performance.

The Commission may base the classes of performance on single parameters or on aggregated scores. Such classes of performance may be expressed in absolute terms or in any other form that enables potential customers to choose the best performing products.

Those classes of performance shall correspond to significant improvements in performance levels.

Where classes of performance are based on parameters in relation to which performance requirements are set, the lowest class shall correspond to the minimum performance required at the time when the classes of performance start to apply.

5. Unless otherwise provided for under paragraph 6, point (b), the information requirements shall make it possible to track the substances of concern, throughout the life cycle of the products concerned, unless such tracking is already possible pursuant to information requirements laid down in

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another delegated act adopted pursuant to Article 4 covering the products concerned, and shall include at least the following:

(a) the name or numerical code of the substances of concern present in the product, as follows:

(i) name in the International Union of Pure and Applied Chemistry (IUPAC) nomenclature, or another international name when IUPAC name is not available;

(ii) other names, including usual name, trade name, abbreviation;

(iii) European Community (EC) number, as indicated in the European Inventory of Existing Commercial Chemical Substances (EINECS), the European List of Notified Chemical Substances (ELINCS) or the No Longer Polymer (NLP) list or the number assigned by the European Chemicals Agency (ECHA), if available and appropriate;

(iv) the Chemical Abstract Service (CAS) name and number, if available;

(b) the location of the substances of concern within the product;

(c) the concentration, maximum concentration or concentration range of the substances of concern, at the level of the product, its relevant components, or spare parts;

(d) relevant instructions for the safe use of the product;

(e) information relevant for disassembly, preparation for reuse, reuse, recycling and the environmentally sound management of the product at end-of-life.

The Commission may, where appropriate for the product group concerned, set thresholds for when the information requirement regarding substances of concern is to apply.

6. Where the Commission sets out information requirements in a delegated act adopted pursuant to Article 4, it shall, where relevant:

(a) lay down dates of application of such information requirements referred to in the first subparagraph of paragraph 5, differentiating between substances of concern where necessary;

(b) provide duly justified exemptions for substances of concern or information elements from such information requirements referred to in the first subparagraph of paragraph 5, based on the technical feasibility or relevance of tracking substances of concern, the existence of analytical methods to detect and quantify them, the need to protect confidential business information or in other duly justified cases; substances of concern within the meaning of Article 2(27), point (a), shall not be exempted if they are present in products, their relevant components or spare parts in a concentration above 0,1 % weight by weight; and

(c) ensure consistency with existing information requirements under Union law and minimise the administrative burden, including through appropriate technical solutions.

7. Information requirements shall indicate the manner in which the required information is to be made available. Where a digital product passport is available, the required information shall be provided therein and shall, where necessary, also be provided in one or more of the following forms:

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(a) on the product itself;

(b) on the product’s packaging;

(c) on a label referred to in Article 16;

(d) in a user manual or other documentation accompanying the product;

(e) on a free access website or application.

Information that makes it possible to track substances of concern pursuant to paragraph 5 shall be given either on the product or be accessible through a data carrier included on the product.

8. The information to be supplied pursuant to information requirements shall be provided in a language which can be easily understood by customers, as determined by the Member State on whose market the product is to be made available or in which it is to be put into service.

Article 8

Content of the delegated acts

The delegated acts adopted pursuant to Article 4 shall specify at least the following elements:

(a) the definition of the product group or groups covered, including the list of commodity codes as set out in Annex I to Council Regulation (EEC) No 2658/87 ([60]) and product descriptions;

(b) the ecodesign requirements for the product groups covered;

(c) where relevant, the product parameters referred to in Annex I for which the Commission states that no ecodesign requirements are necessary, pursuant to Article 4;

(d) the test, measurement or calculation standards or methods to be used pursuant to Article 39(1);

(e) where relevant, requirements for the use of digital tools pursuant to Article 39(2);

(f) where relevant, the transitional methods, the harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union*, or the common specifications to be used;

(g) the format, manner and order in which the information necessary for the verification of compliance is to be made available;

(h) the conformity assessment module to be used pursuant to Article 4(5); where the module to be applied is different from the module set out in Annex IV, the factors leading to the choice of that module;

(i) the requirements concerning information to be provided by manufacturers, including on the elements of the technical documentation that are necessary to enable the verification of compliance of the product with the ecodesign requirements;

(j) where relevant, any additional information requirements under Articles 36 and 37;

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(k) the duration of the transitional period during which Member States are to permit the placing on the market or putting into service of products which comply with the national measures in force in their territory on the date of entry into force of the delegated act adopted pursuant to Article 4;

(l) the date for the review of the delegated act adopted pursuant to Article 4, taking into consideration, among other aspects:

(i) the characteristics of the product group and its market;

(ii) the need to adapt the requirements to make products more sustainable;

(iii) Union policy objectives;

(iv) technical progress; and

(v) availability of methods.

CHAPTER III

DIGITAL PRODUCT PASSPORT

Article 9

Digital product passport

1. The information requirements shall provide that products can only be placed on the market or put into service if a digital product passport is available in accordance with the applicable delegated acts adopted pursuant to Article 4 and with Articles 10 and 11. The data in the digital product passport shall be accurate, complete and up to date.

2. The requirements related to the digital product passport laid down in the delegated acts adopted pursuant to Article 4 shall, as appropriate for the product groups covered, specify the following:

(a) the data to be included in the digital product passport pursuant to Annex III;

(b) one or more data carriers to be used;

(c) the layout in which the data carrier is to be presented and its positioning;

(d) whether the digital product passport is to be established at model, batch or item level, and the definition of such levels;

(e) the manner in which the digital product passport is to be made accessible to customers before they are bound by a contract for sale, hire or hire purchase, including in the event of distance selling;

(f) the actors that are to have access to data in the digital product passport and to what data they are to have access;

(g) the actors that are to create a digital product passport or update the data in a digital product passport and what data they may introduce or update;

(h) the detailed arrangements for introducing or updating data;

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(i) the period during which the digital product passport is to remain available, which shall correspond to at least the expected lifetime of a specific product.

3. The requirements referred to in paragraph 2 shall:

(a) ensure that actors along the value chain can easily access and understand product information relevant to them;

(b) facilitate the verification of product compliance by competent national authorities; and

(c) improve the traceability of products along the value chain.

4. When setting the requirements related to the digital product passport, the Commission may exempt product groups from the requirement to have a digital product passport where:

(a) technical specifications of the digital product passport are not available in relation to the essential requirements included in Articles 10 and 11; or

(b) other Union law includes a system for the digital provision of information related to a product group which the Commission considers achieves the objectives referred to in paragraph 3, points (a) and (b).

Article 10

Requirements for the digital product passport

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 delegated act adopted pursuant to Article 4;

(c) the data carrier and the unique product identifier shall comply with one or more of the standards referred to in Annex III, second paragraph, or equivalent European or international standards until the references of harmonised standards are published in the *Official Journal of the European Union*;

(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 vender lock-in, in accordance with the essential requirements set out in this Article and Article 11;

(e) personal data relating to customers shall not be stored in the digital product passport without their explicit consent in compliance with Article 6 of Regulation (EU) 2016/679;

(f) the data included in the digital product passport shall refer to the product model, batch or item as specified in the delegated act adopted pursuant to Article 4;

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(g) the access to data included in the digital product passport shall be regulated in accordance with the essential requirements set out in this Article and Article 11 and with the specific access rights at product group level as specified in the applicable delegated act adopted pursuant to Article 4.

The Commission is empowered to adopt delegated acts in accordance with Article 72 to amend Annex III, first paragraph, point (c), and second paragraph in light of technical and scientific progress by replacing the standards or adding other European or international standards with which the data carriers, the unique operator identifiers and the unique facility identifiers are to comply for the purposes of meeting the conditions set out in this Article.

2. Where other Union law requires or allows the inclusion of specific data in the digital product passport, those data may be included in the digital product passport pursuant to the applicable delegated act adopted pursuant to Article 4.

3. 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 the data carrier or the unique product identifier accessible to potential customers where they cannot physically access the product;

(b) provide the digital copy referred to in point (a) or a webpage link free of charge promptly and in any event within five working days of receiving a request to do so.

4. 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.

Article 11

Technical design and operation of the digital product passport

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 delegated acts adopted pursuant to Article 4 in relation to the technical, semantic and organisational aspects of end-to-end communication and data transfer;

(b) customers, manufacturers, importers, distributors, dealers, professional repairers, independent operators, refurbishers, remanufacturers, recyclers, market surveillance authorities and customs authorities, civil society organisations, trade unions and other relevant actors shall have free of charge and easy access to the digital product passport based on their respective access rights set out in the applicable delegated act adopted pursuant to Article 4;

(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 digital product passport or

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passports;

(e) the digital product passport shall remain available for the period specified in delegated acts adopted pursuant to Article 4, including after an insolvency, a liquidation or a cessation of activity in the Union of the economic operator responsible for the creation of the digital product passport;

(f) the rights to introduce, modify or update data in the digital product passport shall be restricted based on the access rights specified in delegated acts adopted pursuant to Article 4;

(g) data authentication, reliability and integrity shall be ensured;

(h) digital product passports shall be designed and operated so that a high level of security and privacy is ensured and fraud is avoided.

If the digital product passport is stored pursuant to point (c) of the first subparagraph or otherwise processed by digital product passport service providers, those digital product passport service 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.

The Commission is empowered to adopt delegated acts in accordance with Article 72 to supplement this Article by setting out the requirements that digital product passport service providers are to comply with in order to become such providers, and, where appropriate, a certification scheme to verify compliance with such requirements, and by setting out the requirements that those service providers are to comply with when providing digital product passport services.

The Commission may adopt implementing acts setting out procedures to issue and verify the digital credentials of economic operators and other relevant actors that have access rights to data included in the digital product passport. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 73(3).

Article 12

Unique identifiers

1. The unique operator identifiers referred to in Annex III, first paragraph, points (g) and (h), and the unique facility identifiers referred to in Annex III, first paragraph, point (i), shall comply with the standards referred to in Annex III, first paragraph, point (c), and second paragraph, or equivalent European or international standards, until the references of harmonised standards are published in the *Official Journal of the European Union*.

2. Where a unique operator identifier referred to in Annex III, first paragraph, point (h), is not yet available, the economic operator that creates or updates the digital product passport shall request a unique operator identifier on behalf of the relevant actor and shall provide that actor with full details of the unique operator identifier once issued.

Before issuing a request as referred to in the first subparagraph, the economic operator that creates or updates the digital product passport shall seek confirmation from that relevant actor that no unique

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operator identifier exists.

3. Where a unique facility identifier referred to in Annex III, first paragraph, point (i), is not yet available, the economic operator that creates or updates the digital product passport shall request a unique facility identifier on behalf of the actor responsible for the relevant location or building and shall provide that actor with full details of the unique facility identifier once issued.

Before issuing a request as referred to in the first subparagraph, the economic operator that creates or updates the digital product passport shall seek confirmation from the relevant actor that no unique facility identifier exists.

4. The Commission is empowered to adopt delegated acts in accordance with Article 72 to supplement this Regulation by establishing rules and procedures related to the life cycle management of unique identifiers and of data carriers. In particular, those delegated acts shall:

(a) establish rules for organisations wishing to become an issuing agency for unique identifiers and data carriers; and

(b) establish rules for economic operators wishing to create their own unique identifiers and data carriers without relying on an issuing agency for unique identifiers and data carriers.

5. The delegated acts adopted pursuant to paragraph 4 shall set out:

(a) the criteria to become an issuing agency for unique identifiers and data carriers;

(b) the role of an issuing agency for unique identifiers and data carriers;

(c) the rules to ensure that unique identifiers and data carriers are reliable, verifiable and unique globally;

(d) the rules on creating, maintaining, updating, and withdrawing unique identifiers and data carriers;

(e) the rules related to data management.

6. When establishing the rules and procedures as referred to in paragraph 4, the Commission shall:

(a) seek to ensure interoperability between different approaches;

(b) take into account relevant existing technical solutions and standards;

(c) ensure that the rules and procedures established remain, to the largest extent possible, technologically neutral.

Article 13

Digital product passport registry

1. By 19 July 2026, the Commission shall set up a digital registry (the ‘registry’) which stores in a secure manner at least the unique identifiers.

In the case of products intended to be placed under the customs procedure ‘release for free circulation’, the registry shall store the commodity code.

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The registry shall store the unique identifiers for batteries as referred to in Article 77(3) of Regulation (EU) 2023/1542 of the European Parliament and of the Council ([61]).

The Commission shall manage the registry and shall ensure that the data stored in the registry are processed securely and in compliance with Union law, including applicable rules on the protection of personal data.

2. The Commission shall, in the delegated acts adopted pursuant to Article 4, specify any other data which, in addition to being included in the digital product passport, are to be stored in the registry, taking into account at least the following criteria:

(a) the need to allow for the verification of the authenticity of the digital product passport;

(b) the relevance of information for improving the efficiency and effectiveness of market surveillance checks and customs controls;

(c) the need to avoid a disproportionate administrative burden for economic operators and customs authorities.

3. In relation to its responsibility to set up and manage the registry and the processing of any personal data that might result from that activity, the Commission shall be regarded as controller as defined in Article 3, point (8), of Regulation (EU) 2018/1725.

4. The economic operator placing the product on the market or putting it into service shall upload, in the registry, the data referred to in paragraphs 1 and 2.

5. Upon the uploading by the economic operator of the data referred to in paragraphs 1 and 2 in the registry, the registry shall automatically communicate to that economic operator a unique registration identifier associated with the unique identifiers uploaded in the registry for a specific product in accordance with paragraph 4. That communication by the registry shall not be deemed to be proof of compliance with this Regulation or other Union law.

The Commission shall adopt an implementing act specifying the implementation arrangements for the registry, including for the communication of the unique registration identifier referred to in the first subparagraph.

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 73(3).

6. The Commission, competent national authorities and customs authorities shall have access to the registry for the purposes of carrying out their duties pursuant to Union law.

Article 14

Web portal for data in the digital product passport

The Commission shall set up and manage a publicly accessible web portal allowing stakeholders to search for and compare data included in digital product passports. The web portal shall be designed to

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guarantee that stakeholders can search for and compare the data in a manner that is consistent with their respective access rights specified in the delegated acts adopted pursuant to Article 4.

Article 15

Customs controls relating to the digital product passport

1. Any person intending to place a product covered by a delegated act adopted pursuant to Article 4 under the customs procedure ‘release for free circulation’ shall provide or make available to customs authorities the unique registration identifier of that product referred to in Article 13(5).

The first subparagraph of this paragraph shall apply from the moment the registry is operational.

2. Customs authorities may release a product for free circulation only after having verified as a minimum that the unique registration identifier referred to in Article 13(5) and the commodity code provided or made available to them correspond to the data stored in the registry.

The verification referred to in the first subparagraph of this paragraph shall take place electronically and automatically via the interconnection referred to in paragraph 3. It shall apply from the moment that interconnection is operational.

The release for free circulation shall not be deemed to be proof of compliance with this Regulation or other Union law.

3. The Commission shall interconnect the registry with the EU Customs Single Window Certificates Exchange System (EU CSW-CERTEX), thus enabling the automated exchange of information with the national customs systems through the EU Single Window Environment for Customs established by Regulation (EU) 2022/2399.

That interconnection shall be operational within four years of the date of entry into force of the implementing act referred to in Article 13(5).

4. The Commission and the customs authorities may retrieve and use the data included in the digital product passport and the registry for carrying out their duties pursuant to Union law, including risk management, customs controls and release for free circulation in accordance with Regulation (EU) No 952/2013.

5. This Article is without prejudice to Regulation (EU) No 952/2013 and Chapter VII of Regulation (EU) 2019/1020 and any other Union law.

CHAPTER IV

LABELS

Article 16

Labels

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1. Where the information requirements indicate that information is to be included in a label pursuant to Article 7(7), point (c), the delegated acts adopted pursuant to Article 4 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, taking into account the requirements set out in Article 32 and the implications for the relevant economic operators;

(d) where appropriate, electronic means for generating labels.

2. Where an information requirement entails the inclusion in a label of the class of performance, the layout of the label referred to in paragraph 1, point (b), shall be clear and easily understandable, and shall enable customers to easily compare product performance in relation to the relevant product parameter and to choose better performing products.

3. For energy-related products that are subject to energy labels established pursuant to Regulation (EU) 2017/1369, where information on a relevant product parameter, including on classes of performance referred to in Article 7(4) of this Regulation, cannot be incorporated in the energy label, and provided such information is considered to be more relevant and comprehensive than the information covered by the energy label, the Commission, after assessing the risk of confusion for customers, the administrative burden for economic operators and the best way to communicate that particular information, may, if appropriate, require the establishment of a label in accordance with this Regulation instead of the energy label established pursuant to Regulation (EU) 2017/1369.

4. When setting the information requirements referred to in paragraph 1, the Commission shall, where appropriate, require that the label include data carriers or other means to allow customers to access additional information on the product, including means allowing access to the digital product passport.

5. The Commission shall adopt implementing acts establishing common requirements for the layout of the labels required pursuant to Article 7(7), point (c).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 73(3).

Article 17

Mimicking labels

Products that bear or are accompanied by labels that are likely to mislead or confuse customers or potential customers by mimicking the labels provided for in Article 16 or products that are accompanied by any other information which is likely to mislead or confuse customers or potential customers with regard to the labels provided for in that Article shall not be placed on the market or put into service.

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CHAPTER V

PRIORITISATION, PLANNING AND CONSULTATION

Article 18

Prioritisation and planning

1. When prioritising products to be covered by ecodesign requirements, the Commission shall analyse the potential contribution of those products to achieving Union climate, environmental and energy efficiency objectives, taking into account the following criteria:

(a) the potential for improving the product aspects without entailing disproportionate costs, taking into account in particular:

  (i) the absence or insufficiency of Union law, or failure of market forces or of self-regulation measures to address the objective properly; and

  (ii) the disparity in the performance of products available on the market that have equivalent functionality in relation to the product aspects;

(b) the volume of sales and trade of those products within the Union;

(c) the distribution across the value chain of the climate and environmental impacts, energy use, resource use and waste generation concerning those products;

(d) the need to regularly review and adapt delegated acts adopted pursuant to Article 4 in light of technological and market developments.

The Commission shall also strive to assess the potential contribution of those products to the functioning of the internal market and to the Union's economic resilience.

2. When prioritising aspects to be covered by horizontal ecodesign requirements, the Commission shall take into consideration the benefits of covering a wide range of products and product groups in the same delegated act in relation to reaching the objectives of this Regulation.

3. The Commission shall adopt a working plan and make it publicly available, together with the relevant preparatory documents (‘working plan’). The working plan shall set out a list of product groups which are to be prioritised for the setting of ecodesign requirements and the estimated timelines for their setting. That list shall include product aspects and product groups which are to be considered priorities for the setting of horizontal ecodesign requirements, as well as the unsold consumer products, if any, in relation to which the introduction of a prohibition of destruction by economic operators is to be considered, based on the consolidated information provided pursuant to Article 26 and any other available evidence.

The Commission shall in particular consider the inclusion of electrical and electronic equipment when it first identifies the products, if any, in relation to which it will consider introducing a prohibition of destruction by economic operators.

The working plan shall cover a period of at least three years and shall be regularly updated.

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When adopting or updating the working plan, the Commission shall take into account the criteria set out in paragraphs 1 and 2.

4. The Commission shall present to the European Parliament a draft of the working plan before the adoption of the working plan.

5. In the first working plan, which shall be adopted by 19 April 2025, the Commission shall prioritise the following product groups:

(a) iron and steel;

(b) aluminium;

(c) textiles, in particular garments and footwear;

(d) furniture, including mattresses;

(e) tyres;

(f) detergents;

(g) paints;

(h) lubricants;

(i) chemicals;

(j) energy related products for which ecodesign requirements are to be set for the first time or for which existing measures adopted pursuant to Directive 2009/125/EC are to be reviewed under this Regulation; and

(k) information and communication technology products and other electronics.

If any of the product groups referred to in the first subparagraph is not included in the first working plan or if any other product group is included, the Commission shall provide a justification for its decision in that working plan.

6. Where there is an absence of adequate performance requirements and information requirements concerning the environmental footprint and carbon footprint of cement under the construction products Regulation, the Commission shall set ecodesign requirements for cement in a delegated act adopted pursuant to Article 4 not earlier than 31 December 2028 and not later than 1 January 2030.

7. The Commission shall inform the European Parliament and the Council annually of the progress made in the implementation of the working plan.

Article 19

Ecodesign Forum

The Commission shall establish an Ecodesign Forum as an expert group with a balanced and effective participation of experts designated by Member States and of all parties having an interest in the product or product group in question.

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The Ecodesign Forum shall contribute in particular to:

(a) preparing ecodesign requirements;

(b) preparing working plans;

(c) examining the effectiveness of the established market surveillance mechanisms;

(d) assessing self-regulation measures; and

(e) assessing the prohibition of the destruction of unsold consumer products additional to those listed in Annex VII.

Article 20

Member States Expert Group

The Commission shall establish a Member States Expert Group as a subgroup of the Ecodesign Forum, composed of experts designated by the Member States.

Those experts shall contribute in particular to:

(a) preparing ecodesign requirements;

(b) assessing self-regulation measures;

(c) exchanging information and best practices on measures to enhance compliance with this Regulation;

(d) setting priorities under Article 26.

Article 21

Self-regulation measures

1. Economic operators may submit to the Commission a self-regulation measure setting ecodesign requirements for products not falling within the scope of a delegated act adopted pursuant to Article 4 or not included in the working plan. Those operators shall provide evidence that the criteria referred to in paragraph 3 of this Article are fulfilled.

2. The self-regulation measure submitted pursuant to paragraph 1 shall contain the following information:

(a) a list of the economic operators that are signatories to the self-regulation measure;

(b) the ecodesign requirements applicable to products covered by the self-regulation measure;

(c) a detailed, transparent and objective monitoring plan, with clearly identified responsibilities for industry and independent inspectors, including the criteria set out in Annex VI, point 6;

(d) rules on information to be reported by signatories and on testing and inspections;

(e) rules on the consequences of the non-compliance of a signatory that include provisions whereby, if the signatory has not undertaken sufficient corrective action within three months, it is removed

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from the signatories of that self-regulation measure; and

(f) a note explaining how the self-regulation measure submitted pursuant to paragraph 1 improves the environmental sustainability of products in line with the objectives of this Regulation more quickly or at lesser expense than a delegated act adopted pursuant to Article 4; that note shall be supported by evidence, consisting of a structured technical, environmental and economic analysis, justifying the ecodesign requirements and objectives of the self-regulation measure, and assessing the impacts of those ecodesign requirements.

The signatories of the self-regulation measure shall keep the information referred to in this paragraph up-to-date and available on a publicly and freely accessible website.

The signatories of the self-regulation measure shall, without delay, notify the Commission of any changes to the self-regulation measure, in particular any changes concerning them.

3. The Commission shall assess the submitted self-regulation measure, and, where necessary, shall seek scientific advice from Union decentralised agencies. In the assessment, the Commission shall verify whether the following criteria are fulfilled:

(a) the self-regulation measure is submitted by at least two economic operators;

(b) the market share in terms of volume of the signatories to the self-regulation measure in relation to the products covered by that measure is at least 80 % of units placed on the market or put into service;

(c) the self-regulation measure contributes to improving the environmental sustainability of products in line with the objectives of this Regulation and to ensuring the free movement in the internal market more quickly or at a lesser expense than a delegated act adopted pursuant to Article 4 and consists of ecodesign requirements that are necessary to achieve the objectives of this Regulation;

(d) the self-regulation measure complies with the criteria set out in Annex VI;

(e) the self-regulation measure is in line with Union law and international trade commitments of the Union.

The Commission shall adopt an implementing act containing a list of self-regulation measures which fulfil the criteria of this Article. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 73(2).

4. The Commission may at any point in time request the signatories to a self-regulation measure listed in an implementing act adopted pursuant to paragraph 3, second subparagraph, to submit, within an appropriate period of time, a revised and updated version of that measure in view of relevant market or technological developments relating to the product group concerned. Where the Commission has reason to believe that the criteria set out in this Article are no longer fulfilled, the signatories shall submit a revised and updated version of that measure within three months of the request made by the Commission.

5. Once a self-regulation measure has been listed in an implementing act adopted pursuant to paragraph 3, second subparagraph, the signatories of that measure shall report to the Commission, at

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regular intervals set out in that implementing act, on the progress made towards achieving the objectives of the self-regulation measure and to demonstrate that the criteria set in paragraph 3 remain fulfilled.

The independent inspector referred to in Annex VI, point 6, shall notify the Commission of the lack of compliance of a signatory.

Progress reports, including compliance reports made by the independent inspector, and notifications about lack of compliance and corresponding corrective action shall be made available by the signatories on a publicly accessible website.

6. Where the Commission considers that a self-regulation measure listed in an implementing act adopted pursuant to paragraph 3, second subparagraph, no longer fulfils the criteria set out in this Article or where the signatories of the self-regulation measure concerned did not meet the deadline referred to in paragraph 4, it shall delete that measure from the list referred to in paragraph 3 by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 73(2).

Where a self-regulation measure has been deleted from the list referred to in paragraph 3, the Commission may set ecodesign requirements applicable to the product covered by that self-regulation measure in a delegated act adopted pursuant to Article 4.

Article 22

Small and medium-sized enterprises

1. In the context of programmes from which SMEs, in particular micro-enterprises, can benefit, the Commission shall ensure there are initiatives which help those enterprises to integrate environmental sustainability, including energy efficiency, into their value chain.

2. When adopting delegated acts pursuant to Article 4, the Commission shall, where appropriate, accompany those delegated acts with digital tools and guidelines covering specificities of SMEs, in particular micro-enterprises, active in the product sector or product group sector concerned, in order to facilitate the compliance with this Regulation by those enterprises. When drafting those guidelines, the Commission shall consult organisations that represent SMEs.

3. Member States shall take appropriate measures to help SMEs, in particular microenterprises, comply with the ecodesign requirements set out in delegated acts adopted pursuant to Article 4. Member States shall consult organisations that represent SMEs on the kind of measures SMEs consider useful.

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, in particular microenterprises, to adapt to ecodesign requirements.

In addition, without prejudice to applicable State aid rules, such measures may include:

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(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;

(d) organisational and technical assistance.

CHAPTER VI

DESTRUCTION OF UNSOLD CONSUMER PRODUCTS

Article 23

General principle of prevention of destruction

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

Article 24

Disclosure of information on unsold consumer products

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 Article 25(5);

(c) the proportion of discarded products delivered, whether directly or through a third party, 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 as defined by Article 4 of Directive 2008/98/EC;

(d) measures taken and measures planned for the purpose of preventing the destruction of unsold consumer products.

Economic operators shall disclose the information referred to in the first subparagraph in a clear and visible manner at least on an easily accessible page of their website. Economic operators that are subject to the obligation to publish the sustainability reporting in their management report pursuant to Article 19a or 29a of Directive 2013/34/EU may also include that information in that sustainability reporting.

Economic operators shall disclose the information referred to in the first subparagraph on an annual basis and shall include as part of that information the unsold consumer products discarded during the

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preceding financial year. They shall make the information for each year publicly available. That first disclosure shall cover unsold consumer products discarded during the first full financial year during which this Regulation is in force.

This paragraph shall not apply to micro and small enterprises.

This paragraph shall apply to medium-sized enterprises from 19 July 2030.

2. With the exception of when the information is available to the competent national authority on the basis of another legal act, the economic operators shall, at the request of the Commission or a competent national authority, provide all the information and documentation necessary to demonstrate the delivery and reception of the discarded products as disclosed pursuant to paragraph 1, point (c), of this Article, and, where relevant, the information necessary to demonstrate the applicability of a derogation under Article 25(5). Such information and documentation shall be provided in paper or electronic form within 30 days of receipt of the request.

3. The Commission shall adopt implementing acts setting out the details and format for the disclosure of the information referred to in paragraph 1, including the delimitation of product types or categories and how such information is to be verified.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 73(3).

The first such implementing act shall be adopted by 19 July 2025.

Article 25

Destruction of unsold consumer products

1. From 19 July 2026, the destruction of unsold consumer products as listed in Annex VII shall be prohibited.

This paragraph shall not apply to micro and small enterprises.

This paragraph shall apply to medium-sized enterprises from 19 July 2030.

2. Economic operators that are not subject to the prohibition referred to in paragraph 1 shall not destroy unsold consumer products supplied to them with the purpose of circumventing that prohibition.

3. The Commission is empowered to adopt delegated acts in accordance with Article 72 in order to amend Annex VII:

(a) to add new products, in order to take account of the environmental impacts of their destruction;

(b) to update the entries within product groups, in order to align them to modifications of their respective commodity codes or descriptions that are made in Annex I to Regulation (EEC) No 2658/87, where necessary.

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4. When preparing a delegated act to be adopted pursuant to paragraph 3, point (a), the Commission shall:

(a) assess the prevalence and environmental impacts of the destruction of certain unsold consumer products;

(b) take into account the information disclosed by economic operators pursuant to Article 24(1);

(c) carry out an impact assessment based on best available evidence and analyses, and on additional studies as necessary.

That delegated act shall specify its date of application and, where appropriate, any tiered measures or transitional measures or periods.

5. The Commission shall adopt delegated acts in accordance with Article 72 to supplement this Regulation by setting out derogations from the prohibition of destruction of unsold consumer products listed in Annex VII where it 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, where applicable, Union and national 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;

(g) destruction is the option with the least negative environmental impacts.

Those delegated acts may also, where relevant, provide that the prohibition to destroy unsold consumer products referred to in paragraph 1 of this Article or the disclosure obligation set out in Article 24 apply to micro and small enterprises where there is sufficient evidence that such enterprises could be used to circumvent that prohibition or that obligation.

The first delegated act referred to in the first subparagraph shall be adopted by 19 July 2025.

Article 26

Consolidated information on the destruction of unsold consumer products

By 19 July 2027 and every 36 months thereafter, the Commission shall publish on its website consolidated information on the destruction of unsold consumer products, including the following elements:

(a) the prevalence of the destruction of specific groups of unsold consumer products per year, on the basis of the information disclosed by economic operators pursuant to Article 24(1);

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(b) the comparative environmental impacts resulting from destruction of unsold consumer products per product group.

CHAPTER VII

OBLIGATIONS OF ECONOMIC OPERATORS

Article 27

Obligations of manufacturers

1. When placing products covered by a delegated act adopted pursuant to Article 4 on the market or putting them into service, manufacturers shall ensure that:

(a) those products have been designed and manufactured in accordance with the performance requirements set out in the delegated acts adopted pursuant to Article 4;

(b) those products are accompanied by the information required under Article 7 and the delegated acts adopted pursuant to Article 4; and

(c) a digital product passport is available in accordance with Article 9 and the delegated acts adopted pursuant to Article 4, including a back-up copy of the most up-to-date version of the digital product passport stored by a digital product passport service provider in accordance with Article 10(4).

2. Before placing a product covered by a delegated act adopted pursuant to Article 4 on the market or putting it into service, manufacturers shall carry out the conformity assessment procedure specified in that delegated act, or have it carried out on their behalf, and draw up the required technical documentation.

Where compliance of a product covered by a delegated act adopted pursuant to Article 4 with the applicable requirements has been demonstrated by that procedure, manufacturers shall draw up an EU declaration of conformity in accordance with Article 44 and affix the CE marking in accordance with Article 46. However, where the Commission has specified alternative rules pursuant to Article 4(6), point (d), the manufacturer shall affix conformity marking in accordance with those rules.

3. Manufacturers shall keep the technical documentation and the EU declaration of conformity for 10 years after a product covered by a delegated act adopted pursuant to Article 4 has been placed on the market or put into service, unless a different period has been specified in that delegated act.

4. Manufacturers shall ensure that procedures are in place to ensure that products covered by a delegated act adopted pursuant to Article 4 which are part of a series production remain in conformity with the applicable requirements. Changes in the production process, product design or in characteristics, as well as changes in harmonised standards, common specifications or other technical specifications by reference to which product conformity is declared or through the application of which its conformity is verified, shall be adequately taken into account by manufacturers and, in the event they find that the product’s conformity is affected by such changes, manufacturers shall carry out

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a reassessment in accordance with the applicable conformity assessment procedure as referred to in paragraph 2, or have that reassessment carried out on their behalf.

5. Manufacturers shall ensure that their products covered by a delegated act adopted pursuant to Article 4 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.

6. For products covered by a delegated act adopted pursuant to Article 4, manufacturers shall indicate their name, registered trade name or registered trade mark, postal address at which, and electronic means of communication through which, they can be contacted:

(a) on the public part of the digital product passport, where applicable; and

(b) on the product or, where that is not possible, on its packaging, or in a document accompanying the product.

The address shall indicate a single point where the manufacturer can be contacted. The contact details shall be clear, understandable and legible.

7. Manufacturers shall ensure that a product covered by a delegated act adopted pursuant to Article 4 is accompanied by instructions in digital format concerning the product (‘digital instructions’) in a language that can be easily understood, as determined by the Member State concerned. Digital instructions shall be clear, understandable and legible and include at least the information set out in Article 7(2), point (b)(ii), as specified in that delegated act.

However, manufacturers shall provide in paper, in a concise format, safety information and the instructions relevant for the health and safety of customers and other relevant actors.

When providing the digital instructions, the manufacturer shall include them in the digital product passport and make them accessible through the corresponding data carrier, or, where the digital product passport is not applicable, indicate on the product, or, where that is not possible, on its packaging or in an accompanying document, how to access the digital instructions.

The manufacturer shall present the digital instructions in a format that makes it possible to download and save them on an electronic device so that the user can access them at all times and shall make them accessible online during the expected lifetime of the product, but in any event for at least 10 years after the placing on the market or putting into service of the product.

Where the customer so requests at the time of the purchase, or up to six months after that purchase, the manufacturer shall provide the digital instructions in a paper format, free of charge, within one month of receiving the request.

The delegated acts adopted pursuant to Article 4 may specify that certain information forming part of the digital instructions is also to be provided in paper format.

8. Manufacturers that consider or have reason to believe that a product covered by a delegated act adopted pursuant to Article 4 that they have placed on the market or put into service is not in conformity with the requirements set out in that delegated act shall without undue delay take the

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necessary corrective action to bring that product into conformity, or to immediately withdraw or recall it, if appropriate.

Manufacturers shall immediately inform the market surveillance authorities of the Member States in which they made the product available or put it into service of the suspected non-compliance and of any corrective action taken.

9. Manufacturers shall make publicly available communication channels such as a telephone number, electronic address or dedicated section of their website, taking into account the accessibility needs of persons with disabilities, in order to allow customers to submit complaints or concerns regarding the potential non-conformity of products.

Manufacturers shall keep a register of complaints and concerns as long as it is necessary for the purposes of this Regulation, but no longer than five years after they have been submitted and make the register available at the request of a market surveillance authority.

10. Manufacturers shall, for products covered by a delegated act adopted pursuant to Article 4, further to a reasoned request from a competent national authority, provide all the information and documentation necessary to demonstrate the conformity of those products, including the technical documentation, in a language that can be easily understood by that authority. That information and documentation shall be provided in paper or electronic form, as soon as possible and in any event within 15 days of receipt of a request by that authority.

Manufacturers shall cooperate with the competent national authority regarding any corrective action taken to remedy any case of non-compliance with the requirements set out in the applicable delegated act adopted pursuant to Article 4.

Article 28

Authorised representatives

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

The obligations laid down in Article 27(1) and the drawing up of technical documentation shall not form part of the authorised representative’s mandate.

2. 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 national market surveillance authorities for 10 years after a product covered by a delegated act adopted pursuant to Article 4 has been placed on the market or put into service unless a different period has been specified in that delegated act;

(b) cooperate with the competent national authorities, at their request, on any measures taken with regard to cases of non-compliance of the product covered by the authorised representative’s mandate;

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(c) further to a reasoned request from a competent national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of a product, in a language that can be easily understood by that authority as soon as possible and in any event within 15 days of receipt of such a request; and

(d) terminate the mandate if the manufacturer acts contrary to its obligations under this Regulation.

Article 29

Obligations of importers

1. Importers shall, with regard to products covered by a delegated act adopted pursuant to Article 4, only place on the market products that comply with the requirements set out in the applicable delegated acts.

2. Before placing a product covered by a delegated act adopted pursuant to Article 4 on the market, importers shall ensure that:

(a) the appropriate conformity assessment procedure has been carried out by the manufacturer and that the manufacturer has drawn up the technical documentation;

(b) the product is accompanied by the information required under Article 7 and the delegated acts adopted pursuant to Article 4; and

(c) a digital product passport is available in accordance with Article 9 and the delegated acts adopted pursuant to Article 4, including a back-up copy of the most up-to-date version of the digital product passport stored by a digital product passport service provider in accordance with Article 10(4).

The importer shall further ensure that a product covered by a delegated act adopted pursuant to Article 4 bears the required CE marking referred to in Article 45, where applicable, in accordance with the rules and conditions referred to in Article 46, or the alternative conformity marking as laid down in a delegated act adopted pursuant to Article 4(6), point (d), and is accompanied by the required documents, and that the manufacturer has complied with the requirements set out in Article 27(5) and (6).

Where importers consider or have reason to believe that a product is not in conformity with the requirements set out in the applicable delegated acts adopted pursuant to Article 4, they shall not place the product on the market or put it into service until it has been brought into conformity.

3. For products covered by a delegated act adopted pursuant to Article 4, importers shall indicate their name, registered trade name or registered trade mark, postal address at which and electronic means of communication through which they can be contacted:

(a) on the public part of the digital product passport, where applicable; and

(b) on the product or, where that is not possible, on the packaging, or in a document accompanying the product.

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The contact details shall be clear, understandable and legible.

4. Importers shall ensure that a product covered by a delegated act adopted pursuant to Article 4 is accompanied by digital instructions in a language that can be easily understood, as determined by the Member State concerned. Such instructions shall be clear, understandable and legible and include at least the information set out in Article 7(2), point (b)(ii), as specified in the delegated acts adopted pursuant to Article 4. The obligations laid down in Article 27(7) fourth and fifth subparagraphs, shall apply *mutatis mutandis*.

5. Importers shall ensure that, while a product is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in the applicable delegated act adopted pursuant to Article 4.

6. Importers that consider or have reason to believe that a product covered by a delegated act adopted pursuant to Article 4 that they have placed on the market is not in conformity with the requirements set out in that delegated act shall without undue delay take the necessary corrective action to bring that product into conformity, or to immediately withdraw or recall it, if appropriate.

Importers shall immediately inform the market surveillance authorities of the Member States in which they made the product available of the suspected non-compliance and of any corrective action taken.

7. Importers shall keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities, upon request, for 10 years after a product covered by a delegated act adopted pursuant to Article 4 has been placed on the market or put into service, unless a different period has been specified in that delegated act.

8. Importers shall, for products covered by a delegated act adopted pursuant to Article 4, further to a reasoned request from a competent national authority, provide all the information and documentation necessary to demonstrate the conformity of those products, including the technical documentation, in a language that can be easily understood by that authority. That information and documentation shall be provided in paper or electronic form, as soon as possible and in any event within 15 days of receipt of a request by that authority.

Importers shall cooperate with the competent national authority regarding any corrective action taken to remedy any case of non-compliance with the requirements set out in the applicable delegated act adopted pursuant to Article 4.

Article 30

Obligations of distributors

1. When making a product covered by a delegated act adopted pursuant to Article 4 available on the market, distributors shall act with due care in relation to the requirements set out in the applicable delegated acts.

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2. Before making a product covered by a delegated act adopted pursuant to Article 4 available on the market, distributors shall verify that:

(a) the product bears the CE marking in accordance with Articles 45 and 46 or the conformity marking adopted in accordance with Article 4(6), point (d), and, where relevant, is labelled or is linked to a digital product passport in accordance with that delegated act;

(b) the product is accompanied by the required documents and by digital instructions in a language that can be easily understood by customers, as determined by the Member State concerned, and that such instructions are clear, understandable and legible and include at least the information set out in Article 7(2), point (b) (ii), as specified in the delegated act adopted pursuant to Article 4; the obligations laid down in Article 27(7), fourth and fifth subparagraphs, shall apply *mutatis mutandis*; and

(c) the manufacturer and the importer have complied with the requirements set out in Article 27(5) and (6) and Article 29(3).

3. Where distributors consider or have reason to believe that a product, before making it available on the market, is not in conformity, or its manufacturer is not complying, with the requirements set out in the applicable delegated acts adopted pursuant to Article 4, they shall not make the product available on the market until the product has been brought into conformity or the manufacturer complies.

Distributors shall ensure that, while a product is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in in the applicable delegated acts adopted pursuant to Article 4.

4. Distributors that consider or have reason to believe that a product which they have made available on the market is not in conformity with the requirements set out in the applicable delegated acts adopted pursuant to Article 4 shall ensure that the necessary corrective action to bring that product into conformity, to withdraw or recall it, if appropriate, is taken.

Distributors shall immediately inform the market surveillance authorities of the Member States in which they made the product available of the suspected non-compliance and of any corrective action taken.

5. Distributors shall, further to a reasoned request from a competent national authority, provide all the information and documentation to which they have access and that is necessary to demonstrate the conformity of a product. That information and documentation shall be provided in paper or electronic form, within 15 days of receipt of a request by that authority.

Distributors shall cooperate with the competent national authority regarding any corrective action taken to remedy any case of non-compliance with the applicable delegated act adopted pursuant to Article 4.

Article 31

Obligations of dealers

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1. Dealers shall ensure that their customers and potential customers have access to any relevant information accompanying products, as required by the delegated acts adopted pursuant to Article 4, 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, as set out in Article 9(2), point (e), and specified in the applicable delegated acts adopted pursuant to Article 4.

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 Article 32(1), point (b) or (c);

(b) make reference to the information included on the labels provided in accordance with Article 32(1), point (b) or (c), in visual advertisements or in technical promotional material for a specific model, in accordance with the applicable delegated acts adopted pursuant to Article 4; and

(c) not provide or display other labels, marks, symbols or inscriptions that are likely to mislead or confuse customers and potential customers with regard to the information included on the label regarding ecodesign requirements.

Article 32

Obligations related to labels

1. Where a delegated act adopted pursuant to Article 4 requires products to have a label as referred to in Article 16, 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 in accordance with that delegated act;

(b) provide printed labels or digital copies of the label to the dealer free of charge, promptly and in any event within 5 working days of the dealer’s request; and

(c) ensure that their labels are accurate, and provide technical documentation sufficient to enable the accuracy of their labels to be assessed.

2. Where a delegated act adopted pursuant to Article 4 requires products to have a label as referred to in Article 16, the economic operators making the products available or putting them into service shall:

(a) make reference to the information included on the label in visual advertisements or in technical promotional material for a specific model, in accordance with the applicable delegated acts adopted pursuant to Article 4;

(b) not provide or display other labels, marks, symbols or inscriptions that are likely to mislead or confuse customers or potential customers with regard to the information included on the label regarding ecodesign requirements.

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Article 33

Obligations of fulfilment service providers

Fulfilment service providers shall ensure that, for products that they handle that are covered by a delegated act adopted pursuant to Article 4, the conditions during warehousing, packaging, addressing or dispatching do not jeopardise the products' compliance with that delegated act.

Article 34

Cases in which obligations of manufacturers apply to importers and distributors

Importers or distributors shall be considered manufacturers for the purposes of this Regulation where they:

(a) place a product covered by a delegated act adopted pursuant to Article 4 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 requirements set out in the applicable delegated acts adopted pursuant to Article 4.

Article 35

Obligations of providers of online marketplaces and online search engines

1. The general obligations provided for in Articles 11 and 30 of Regulation (EU) 2022/2065 shall apply for the purposes of this Regulation.

Without prejudice to the general obligations referred to in the first subparagraph, providers of online marketplaces shall cooperate with the market surveillance authorities, at the request of those authorities and in specific cases, to facilitate any action taken to eliminate or, if that is not possible, to mitigate the non-compliance of a product that is or was offered for sale online through their services.

2. As far as powers conferred by Member States in accordance with Article 14 of Regulation (EU) 2019/1020 are concerned, Member States shall confer on their market surveillance authorities the power, for all products covered by a relevant delegated act adopted pursuant to Article 4, 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 them. Such content shall be considered to be illegal content within the meaning of Article 3, point (h), of Regulation (EU) 2022/2065. Market surveillance authorities may, in accordance with Article 9 of Regulation (EU) 2022/2065, issue such orders.

3. Providers of online marketplaces shall establish a single contact point for the purposes of direct communication with Member States' market surveillance authorities in relation to compliance with this Regulation.

That single contact point may be the same contact point as that referred to in Article 22(1) of Regulation (EU) 2023/988 of the European Parliament and of the Council ([62]) or Article 11(1) of Regulation (EU) 2022/2065.

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Article 36

Information obligations of economic operators

1. When making a product covered by a delegated act adopted pursuant to Article 4 available on the market through distance selling, economic operators shall ensure that the product offer clearly and visibly provides at least the following information:

(a) the name, registered trade name or registered trade mark of the manufacturer, as well as the postal and electronic address where the manufacturer can be contacted;

(b) in the event that the manufacturer is not established in the Union, the name, postal and electronic address and telephone number of the economic operator established in the Union within the meaning of Article 4(2) of Regulation (EU) 2019/1020; and

(c) information allowing the identification of the product, including a picture of it, its type and any other product identifier.

2. Economic operators shall, upon a reasoned request, provide the market surveillance authorities with:

(a) the name of any economic operator that has supplied them with a product falling within the scope of a delegated act adopted pursuant to Article 4;

(b) the name of any economic operator to whom or to which they have supplied such products, as well as the quantities and exact models of such products.

Economic operators shall ensure that they are able to provide the information referred to in the first subparagraph for 10 years after they have been supplied with the relevant products and for 10 years after they have supplied such products, unless a different period has been specified in the delegated act referred to in paragraph 1. That information shall be provided in paper or electronic form within 15 days of receipt of a request by the market surveillance authority.

3. When requiring manufacturers, their authorised representatives or importers to make parts of the technical documentation related to the relevant product digitally available pursuant to Article 4(6), point (a)(iii), the Commission shall take into account the following criteria:

(a) the need to facilitate the verification by market surveillance authorities of compliance of manufacturers, their authorised representatives and importers with the applicable requirements; and

(b) the need to avoid a disproportionate administrative burden for economic operators, in particular for SMEs.

The Commission shall specify the manner in which the relevant parts of the technical documentation are to be made available. Where the digital product passport is available, technical documentation shall be made available through it.

Article 37

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Monitoring and reporting obligations of economic operators

1. When requiring manufacturers, their authorised representatives or importers to make available to the Commission information on the quantities of a product pursuant to Article 4(6), point (b), the Commission shall take into account the following criteria:

(a) the availability of evidence concerning the market penetration of the relevant product and which is necessary to facilitate the review of delegated acts adopted pursuant to Article 4 applicable to that product;

(b) the need to avoid a disproportionate administrative burden for economic operators, in particular for SMEs; and

(c) the usefulness of the information required and the proportionality of that requirement.

The Commission shall specify the period to which the information referred to in the first subparagraph is to relate. That information shall be differentiated per product model.

The Commission shall specify the means through which the relevant information is to be made available and how frequently such information is to be made available.

The Commission shall ensure that the information made available is processed securely and in compliance with Union law.

2. When requiring that a product be able to measure the energy it consumes or its performance in relation to other relevant product parameters referred to in Annex I while in use, pursuant to Article 4(6), point (c)(i), the Commission shall take into account the following criteria:

(a) the usefulness of in-use data for end users to understand and manage the energy use or performance of the product;

(b) the technical feasibility of recording in-use data;

(c) the need to avoid a disproportionate administrative burden for economic operators, in particular for SMEs; and

(d) the need to ensure that no data allowing the identification of individuals or allowing the inference of individuals' behaviour are collected.

3. Products covered by a requirement set pursuant to Article 4(6), point (c), shall where appropriate, in line with the criteria in paragraph 2 of this Article, record the in-use data and make such data visible to the end user.

4. When requiring manufacturers, their authorised representatives or importers to collect non-personal in-use data referred to in paragraph 2 of this Article and report such data to the Commission, pursuant to Article 4(6), point (c)(ii), the Commission shall take into account the following criteria:

(a) the usefulness of non-personal in-use data for the Commission when reviewing ecodesign requirements or assisting market surveillance authorities with statistical information for their risk-based analysis; and

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(b) the need to avoid a disproportionate administrative burden for economic operators, in particular for SMEs.

5. The requirements referred to in paragraph 4 may in particular consist of:

(a) collecting non-personal in-use data if they can be accessed remotely via the internet, following explicit consent being given by the end user to make those data available; and

(b) reporting those data to the Commission at least once a year.

Where reporting is required pursuant to point (b) of the first subparagraph, those data shall include, where available, the identification number of the model as registered in the product database referred to in Article 12(1) of Regulation (EU) 2017/1369 and, if relevant to their performance, general geographical information on the products.

6. The Commission shall specify, in the relevant delegated act, the details and format for reporting the non-personal in-use data as referred to in paragraph 4.

7. The Commission shall periodically assess the non-personal in-use data received pursuant to paragraph 4 and shall, where appropriate, publish aggregated datasets.

Article 38

Requirements on supply chain actors

When specified in the delegated act adopted pursuant Article 4, supply chain actors shall:

(a) provide, upon request and free of charge, manufacturers, notified bodies and competent national authorities with available relevant information related to the products they supply or the services they provide;

(b) allow, in the absence of information referred to in point (a), manufacturers to assess the products they supply or the services they provide and give access to relevant documents or facilities to those manufacturers; and

(c) enable notified bodies and competent national authorities to verify the accuracy of relevant information related to their activities.

CHAPTER VIII

CONFORMITY OF PRODUCTS

Article 39

Test, measurement and calculation methods

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

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methods. Such methods shall fulfil the requirements for test, measurement and calculation methods set out in the relevant delegated acts adopted pursuant to Article 4.

2. When setting the requirement to use digital tools pursuant to Article 4(6), point (c)(iii), the Commission shall take into account the following criteria:

(a) the need to ensure the harmonised application of calculation methods; and

(b) the need to minimise the administrative burden imposed on economic operators.

Digital tools shall be freely accessible for economic operators.

Article 40

Prevention of circumvention and worsening of performance

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

2. Products falling within the scope of a delegated act adopted pursuant to Article 4 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 of the product parameters regulated in the applicable delegated acts adopted pursuant to Article 4.

For the purposes of this paragraph, products designed to be able 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 they are tested.

3. Economic operators that place on the market or put into service a product covered by a delegated act adopted pursuant to Article 4 shall not prescribe instructions specific to testing that alter the behaviour or the properties of the product in order to reach a more favourable result for any of the product parameters regulated in the applicable delegated acts adopted pursuant to Article 4.

For the purposes of this paragraph, instructions leading to a manual alteration of the product, before a test, that alters the performance of the product shall be considered to be instructions specific to testing that alter the behaviour or the properties of the product.

4. Products falling within the scope of a delegated act adopted pursuant to Article 4 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 of the product parameters regulated in the applicable delegated acts adopted pursuant to Article 4, or their functional performance from the perspective of the user.

5. Software or firmware updates shall not lead to the worsening of product performance beyond acceptable margins specified in the applicable delegated acts adopted pursuant to Article 4 in relation to any of the product parameters regulated in those delegated acts or the functional performance from

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the perspective of the user when measured with the test method used for the conformity assessment, except where the customer explicitly consents prior to the update to such worsening of performance. No change shall occur as a result of rejecting the update.

Software or firmware updates shall in no circumstances lead to the worsening of product performance as referred to in the first subparagraph of this paragraph to the extent that the product becomes non-compliant with the requirements set out in delegated acts adopted pursuant to Article 4 applicable at the time of the placing on the market or putting into service of the product.

Article 41

Presumption of conformity

1. Tests, measurement or calculation methods referred to in Article 39 which are in conformity with harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union* shall be presumed to be in conformity with the requirements set out in that Article and with test, measurement and calculation requirements set out in delegated acts adopted pursuant to Article 4 to the extent that those requirements are covered by such harmonised standards or parts thereof.

2. Digital product passports which are in conformity with harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union* shall be presumed to be in conformity with the requirements set out in Articles 10 and 11 to the extent that those requirements are covered by such harmonised standards or parts thereof.

3. Products which are in conformity with harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union* shall be presumed to be in conformity with ecodesign requirements set out in delegated acts adopted pursuant to Article 4 to the extent that those requirements are covered by such harmonised standards or parts thereof.

4. Products covered by a delegated act adopted pursuant to Article 4 which have been awarded the EU Ecolabel pursuant to Regulation (EC) No 66/2010 shall be presumed to comply with the ecodesign requirements set out in that delegated act to the extent that those requirements are covered by the EU Ecolabel criteria established pursuant to Article 16(2) of that Regulation.

Article 42

Common specifications

1. The Commission may adopt implementing acts establishing, for products covered by delegated acts adopted pursuant to Article 4, common specifications covering ecodesign requirements, the essential requirements for digital product passports referred to in Articles 10 and 11 or the test, measurement or calculation methods referred to in Article 39.

Those implementing acts shall only be adopted where the following conditions are fulfilled:

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(a) the Commission has requested, pursuant to Article 10(1) of Regulation (EU) No 1025/2012, one or more European standardisation organisations to draft a harmonised standard for an ecodesign requirement, for an essential requirement for digital product passports referred to in Articles 10 and 11 of this Regulation or for a test, measurement or calculation method referred to in Article 39 of this Regulation; and:

(i) the request has not been accepted;

(ii) the harmonised standard addressing that request is not delivered within the deadline set in accordance with Article 10(1) of Regulation (EU) No 1025/2012; or

(iii) the harmonised standard does not comply with the request; and

(b) no reference to harmonised standards for an ecodesign requirement, for an essential requirement for digital product passports referred to in Articles 10 and 11 of this Regulation or for a test, measurement or calculation method referred to in Article 39 of this Regulation is published in the *Official Journal of the European Union* in accordance with Regulation (EU) No 1025/2012 and no such reference is expected to be published within a reasonable period.

The implementing acts referred to in the first subparagraph of this paragraph shall be adopted in accordance with the examination procedure referred to in Article 73(3).

2. Before preparing the draft of the implementing acts referred to in paragraph 1 of this Article, the Commission shall inform the committee referred to in Article 22 of Regulation (EU) No 1025/2012 that it considers that the conditions in paragraph 1 of this Article are fulfilled.

3. When preparing the draft of the implementing acts referred to in paragraph 1, the Commission shall take into account the views of the Ecodesign Forum and of the Member States Expert Group as well as of any other relevant bodies, and shall duly consult all relevant stakeholders.

4. Test, measurement and calculation methods referred to in Article 39 which are in conformity with common specifications established by implementing acts referred to in paragraph 1 of this Article or parts thereof shall be presumed to be in conformity with the requirements set out in that Article and with test, measurement and calculation requirements set out in delegated acts adopted pursuant to Article 4 to the extent that those requirements are covered by such common specification or parts thereof.

5. Products within the scope of this Regulation which are in conformity with common specifications established by implementing acts referred to in paragraph 1 of this Article or parts thereof shall be presumed to be in conformity with ecodesign requirements, with the essential requirements for digital product passports referred to in Articles 10 and 11 or with the requirements for test, measurement or calculation methods referred to in Article 39 set out in the applicable delegated acts adopted pursuant to Article 4 to the extent that those requirements are covered by those common specifications or parts thereof.

6. Where a harmonised standard is adopted by a European standardisation organisation and proposed to the Commission for the purpose of publishing its reference in the *Official Journal of the European*

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Union, the Commission shall assess the harmonised standard in accordance with Regulation (EU) No 1025/2012.

When references of a harmonised standard are published in the *Official Journal of the European Union*, the Commission shall repeal the implementing acts referred to in paragraph 1 or the parts thereof which cover the same ecodesign requirements, essential requirements for digital product passports and requirements for test, measurement or calculation methods.

7. Where a Member State or the European Parliament considers that a common specification does not entirely satisfy the ecodesign requirements, the essential requirements for digital product passports and requirements for the test, measurement or calculation methods, it shall inform the Commission thereof by submitting a detailed explanation. The Commission shall assess that detailed explanation and, if appropriate, may amend the implementing act establishing the common specification in question.

Article 43

Conformity assessment

1. When specifying the applicable conformity assessment procedure pursuant to Article 4(5), the Commission shall consider the following criteria:

(a) whether the module concerned is appropriate to the type of product and to 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 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 set out in Annex II to Decision No 768/2008/EC.

2. Records and correspondence relating to the conformity assessment shall be drawn up in an official language of the Member State where the notified body involved in a conformity assessment procedure referred to in paragraph 1 is established, or in a language accepted by that body.

Article 44

EU declaration of conformity

1. The EU declaration of conformity shall state that the fulfilment of the ecodesign requirements specified in the applicable delegated acts adopted pursuant to Article 4 has been demonstrated or that a presumption of conformity applies in accordance with Article 41.

2. The EU declaration of conformity shall have the model structure set out in Annex V, and shall contain the elements specified in the applicable conformity assessment procedure and a reference to the applicable delegated acts adopted pursuant to Article 4. It shall be continuously updated and shall be translated into the language or languages required by the Member State on whose market the product is placed or made available.

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3. Where a product covered by a delegated act adopted pursuant to Article 4 is subject to more than one Union legal act requiring an EU declaration of conformity, a single EU declaration of conformity shall be drawn up in respect of all such Union legal acts. That declaration shall state the Union legal acts concerned and their publication references. It may be a dossier made up of relevant individual EU declarations of conformity.

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

Article 45

General principles of the CE marking

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

Article 46

Rules and conditions for affixing the CE marking

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.

The identification number of the notified body shall be affixed by the body itself or, under its instructions, by the manufacturer or its authorised representative.

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. Member States shall build upon existing mechanisms to ensure correct application of the regime governing the CE marking and take appropriate action in the event of improper use of the CE marking.

Article 47

Specific rules on markings

As regards products not subject to requirements for a CE marking under Union law, when specifying rules on markings indicating conformity with the applicable ecodesign requirements pursuant to Article 4(6), point (d), the Commission shall take into account the following criteria:

(a) the need to minimise the administrative burden for economic operators;

(b) the need to ensure there is coherence in relation to other markings applicable to a specific product; and

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(c) the need to prevent confusion about the meaning of markings under other Union law.

CHAPTER IX

NOTIFICATION OF CONFORMITY ASSESSMENT BODIES

Article 48

Notification

Where third-party conformity assessment tasks are provided for under the delegated acts adopted pursuant to Article 4, Member States shall notify the Commission and the other Member States of the bodies authorised to carry out those tasks.

Article 49

Notifying authorities

1. Member States shall designate a notifying authority that shall be 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, including compliance with Article 54.

2. Member States may decide that the assessment and monitoring referred to in paragraph 1 is to be carried out by a national accreditation body within the meaning of and in accordance with Regulation (EC) No 765/2008.

3. Where the notifying authority delegates or otherwise entrusts the assessment, notification or monitoring referred to in paragraph 1 of this Article to a body which is not a governmental entity, that body shall be a legal entity and shall comply *mutatis mutandis* with the requirements laid down in Article 50. In addition, it shall have arrangements to cover liabilities arising out of its activities.

4. The notifying authority shall take full responsibility for the tasks performed by the body referred to in paragraph 3.

Article 50

Requirements relating to notifying authorities

1. A notifying authority shall be established in such a way that no conflict of interest with conformity assessment bodies occurs.

2. A notifying authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities.

3. A notifying authority shall be organised in such a way that each decision relating to notification of a conformity assessment body is taken by competent persons different from those who carried out the assessment.

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4. A notifying authority shall not offer or provide any activities that conformity assessment bodies perform, or consultancy services on a commercial or competitive basis.

5. A notifying authority shall safeguard the confidentiality of the information it obtains. However, it shall, upon request, exchange information on notified bodies with the Commission, with notifying authorities of other Member States and with other relevant national authorities.

6. A notifying authority shall assess only the specific conformity assessment body applying for notification and not take account of the capacities or personnel of parent or sister companies. The notifying authority shall assess that body in relation to all relevant requirements and conformity assessment tasks.

7. A notifying authority shall have a sufficient number of competent personnel and sufficient funding at its disposal for the proper performance of its tasks.

Article 51

Information obligation on notifying authorities

Member States shall inform the Commission of their procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, and of any changes thereto.

The Commission shall make that information publicly available.

Article 52

Requirements relating to notified bodies

1. For the purposes of notification, a conformity assessment body shall meet the requirements laid down in paragraphs 2 to 12.

2. A conformity assessment body shall be established under the national law of a Member State and have legal personality.

3. A conformity assessment body shall be a third-party body independent of the organisation or the product it assesses. It shall not have any business ties with organisations that have an interest in the products it assesses, in particular manufacturers, their trade partners and their shareholding investors. This shall not preclude the conformity assessment body from carrying out conformity assessment activities for competing manufacturers.

4. A conformity assessment body, its top-level management and the personnel responsible for carrying out the conformity assessment tasks shall not be the designer, manufacturer, supplier, importer, distributor, installer, purchaser, owner, user or maintainer of the products which they assess, or the representative of any of those parties. This shall not preclude the use of assessed products that are necessary for the operations of the conformity assessment body or the use of such products for personal purposes.

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A conformity assessment body, its top-level management and the personnel responsible for carrying out the conformity assessment tasks shall not be directly involved in the design, manufacture or construction, or the marketing, installation, use or maintenance of those products, or represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified. This shall apply in particular to consultancy services.

Conformity assessment bodies shall ensure that the activities of their parent or sister companies, subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

A conformity assessment body shall not delegate to a subcontractor or a subsidiary the establishment and the supervision of internal procedures, general policies, codes of conduct or other internal rules, the assignment of its personnel to specific tasks or the conformity assessment decisions.

5. Conformity assessment bodies and their personnel shall carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field. They shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in the results of those activities.

6. A conformity assessment body shall be capable of carrying out all the conformity assessment tasks assigned to it under the relevant delegated act adopted pursuant to Article 4 and in relation to which it has been notified, irrespective of whether those tasks are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

At all times and for each conformity assessment procedure, and for each kind or category of products in relation to which it has been notified, a conformity assessment body shall have at its disposal:

(a) the necessary personnel with technical knowledge, and sufficient and appropriate experience to perform the conformity assessment tasks;

(b) the necessary descriptions of the procedures in accordance with which conformity assessment is carried out, ensuring the transparency and the ability of reproduction of those procedures including a description of how relevant personnel, their status and tasks correspond to the conformity assessment tasks in relation to which the body intends to be notified;

(c) appropriate policies and procedures to distinguish between the tasks it carries out as a notified body and its other activities;

(d) procedures for the performance of activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

It shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary equipment or facilities.

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7. The personnel responsible for carrying out conformity assessment activities shall have the following:

(a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been notified;

(b) satisfactory knowledge of the requirements of the assessments they carry out and adequate authority to carry out those assessments, including appropriate knowledge and understanding of the relevant legislation, test, measurement and calculation requirements, of the applicable harmonised standards or common specifications, and of the relevant provisions of this Regulation and of the delegated acts adopted pursuant to Article 4;

(c) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.

8. Personnel responsible for taking assessment decisions shall:

(a) be employed by the conformity assessment body under the national law of the notifying Member State;

(b) not have any potential conflict of interest;

(c) be competent to verify the assessments made by other staff, external experts or subcontractors;

(d) be sufficient in number to ensure business continuity and a consistent approach to conformity assessments.

9. The impartiality of the conformity assessment bodies and their top-level management and of the assessment personnel shall be guaranteed.

The remuneration of the top-level management and assessment personnel of a conformity assessment body shall not depend on the number of assessments carried out or their results.

10. Conformity assessment bodies shall take out liability insurance, unless liability is assumed by the State in accordance with national law, or the Member State itself is directly responsible for the conformity assessment.

11. The personnel of a conformity assessment body shall observe professional secrecy regarding all information obtained in carrying out the conformity assessment tasks under the relevant delegated acts adopted pursuant to Article 4, except in relation to the notifying authorities and other national authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.

12. Conformity assessment bodies shall participate in, or ensure that their assessment personnel are informed about, the relevant standardisation activities and take into account the relevant guidance and recommendations issued by the competent technical committees of the European standardisation bodies.

Article 53

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Presumption of conformity of conformity assessment bodies

Where a conformity assessment body demonstrates its conformity with the criteria laid down in the relevant harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union*, it shall be presumed to comply with the requirements set out in Article 52 insofar as the applicable harmonised standards cover those requirements.

Article 54

Subsidiaries of and subcontracting by notified bodies

1. Where a notified body subcontracts specific tasks connected with conformity assessment or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 52 and shall inform the notifying authority accordingly.

2. Notified bodies shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are established.

3. Activities may be subcontracted or carried out by a subsidiary only with the agreement of the client.

4. Notified bodies shall keep at the disposal of the notifying authority the relevant documents concerning the assessment and monitoring of the qualifications of the subcontractor or the subsidiary and the work carried out by them under the relevant delegated acts adopted pursuant to Article 4.

Article 55

Application for notification

1. A conformity assessment body shall submit an application for notification to the notifying authority of the Member State in which it is established.

2. That application shall be accompanied by a description of the conformity assessment activities, the conformity assessment module or modules and the product or products for which that body claims to be competent, as well as by an accreditation certificate, where one exists, issued by a national accreditation body attesting that the conformity assessment body fulfils the requirements laid down in Article 52. The accreditation certificate shall relate only to the precise legal body applying for notification and shall be based, in addition to relevant harmonised standards, on the specific requirements and conformity assessment tasks set out in the relevant delegated act adopted pursuant to Article 4.

3. Where the conformity assessment body concerned cannot provide an accreditation certificate, it shall provide the notifying authority with all the documentary evidence necessary for the verification, recognition and regular monitoring of its compliance with the requirements laid down in Article 52.

Article 56

Notification procedure

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1. Notifying authorities may only notify conformity assessment bodies which have satisfied the requirements laid down in Article 52.

2. Notifying authorities shall notify the Commission and the other Member States using the electronic notification tool developed and managed by the Commission.

3. The notification shall include full details of the conformity assessment activities, the conformity assessment module or modules and product or products concerned and the relevant attestation of competence.

4. Where a notification is not based on an accreditation certificate as referred to in Article 55(2), the notifying authority shall provide the Commission and the other Member States with documentary evidence which attests to the conformity assessment body's competence and the arrangements in place to ensure that that body will be monitored regularly and will continue to satisfy the requirements laid down in Article 52.

5. The conformity assessment body concerned may perform the activities of a notified body if the Commission or the other Member States do not raise any objections within two weeks of a notification where an accreditation certificate is used, or within two months of a notification where accreditation is not used.

Only such a body shall be considered a notified body for the purposes of this Regulation.

6. The notification shall become valid the day after the body is included in the list of notified bodies referred to in Article 57(2) by the Commission.

The body concerned may perform the activities of a notified body only after the notification has become valid.

The Commission shall not publish a notification if it is aware or becomes aware that the relevant notified body does not meet the requirements laid down in Article 52.

7. The Commission and the other Member States shall be notified of any subsequent relevant changes to the notification.

Article 57

Identification numbers and lists of notified bodies

1. The Commission shall assign an identification number to a notified body.

It shall assign a single such number even where the body is notified under several Union acts.

2. The Commission shall make publicly available the list of the bodies notified under this Regulation, including the identification numbers that have been assigned to them and the activities for which they have been notified.

The Commission shall ensure that that list is kept up to date.

Article 58

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Changes to notifications

1. Where a notifying authority has ascertained or has been informed that a notified body no longer meets the requirements laid down in Article 52, or that it is failing to fulfil its obligations, the notifying authority shall restrict, suspend or withdraw the notification as appropriate, depending on the seriousness of the failure to meet those requirements or fulfil those obligations. It shall immediately inform the Commission and the other Member States accordingly.

2. In the event of a restriction, suspension or withdrawal of a notification, or where the notified body has ceased its activity, the notifying Member State shall take appropriate steps to ensure that that body's files are either processed by another notified body or kept available for the responsible notifying and market surveillance authorities at their request.

Article 59

Challenge to the competence of notified bodies

1. The Commission shall investigate all cases where it doubts, or doubt is brought to its attention regarding, the competence of a notified body or the continued fulfilment by a notified body of the requirements and responsibilities to which it is subject.

2. The notifying Member State shall provide the Commission, on request, with all information relating to the basis for the notification or the maintenance of the competence of the body concerned.

3. The Commission shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.

4. Where the Commission ascertains that a notified body does not meet or no longer meets the requirements for its notification, it shall inform the notifying Member State accordingly and request it to take the necessary corrective measures, including withdrawal of the notification if necessary.

The Commission shall update the list of notified bodies referred to in Article 57(2) within two weeks of the notification of the corrective measures taken by the notifying Member States in accordance with the first subparagraph of this paragraph.

Article 60

Operational obligations of notified bodies

1. Notified bodies shall carry out conformity assessments in accordance with the conformity assessment procedures provided for in the delegated acts adopted pursuant to Article 4.

2. Conformity assessments shall be carried out in a proportionate manner, avoiding unnecessary burdens for economic operators. Notified bodies shall perform their activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

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In so doing they shall nevertheless respect the degree of rigour and the level of protection required for the compliance of the product with the relevant requirements.

3. Where a notified body finds that a manufacturer does not meet the relevant requirements or corresponding harmonised standards, common specifications or other technical specifications, it shall require that manufacturer to take appropriate corrective measures in view of a final conformity assessment, unless the deficiencies cannot be remedied, in which case it shall not issue a certificate or approval decision.

4. Where, in the course of the monitoring of conformity following the issue of a certificate in accordance with the conformity assessment procedures provided for in a delegated act adopted pursuant to Article 4 or approval decision, a notified body finds that a product or the manufacturer does not comply or no longer complies, it shall require the manufacturer to take appropriate corrective measures and shall suspend or withdraw the certificate or approval decision if necessary.

5. Where corrective measures are not taken or do not have the required effect, the notified body shall restrict, suspend or withdraw any certificates or approval decisions, as appropriate.

Article 61

Information obligation on notified bodies

1. Notified bodies shall inform the notifying authority of the following:

(a) any refusal, restriction, suspension or withdrawal of a certificate;

(b) any circumstances affecting the scope of and conditions for notification;

(c) any request for information which they have received from market surveillance authorities regarding conformity assessment activities;

(d) on request, conformity assessment activities performed within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.

2. Notified bodies shall provide the other bodies notified under this Regulation which carry out similar conformity assessment activities that cover the same product group with relevant information on issues relating to negative and, on request, positive conformity assessment results.

3. Where the Commission or a Member State’s market surveillance authority submits a request to a notified body established on the territory of another Member State relating to a conformity assessment carried out by that notified body, it shall send a copy of that request to the notifying authority of that other Member State. The notified body concerned shall respond without delay and within 15 days at the latest to the request. The notifying authority shall ensure that such requests are resolved by the notified body.

4. Where notified bodies have or receive evidence as to the following, they shall alert, and share that evidence with, the relevant market surveillance authority or notifying authority, as appropriate:

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(a) that another notified body does not comply with the requirements laid down in Article 52 or its obligations;

(b) that a product placed on the market does not comply with ecodesign requirements set out in the applicable delegated acts adopted pursuant to Article 4; or

(c) that a product placed on the market, due to its physical condition, is likely to cause a serious risk.

Article 62

Exchange of experience

The Commission shall provide for the organisation of exchange of experience between the Member States' authorities responsible for notification policy.

Article 63

Coordination of notified bodies

1. The Commission shall ensure that appropriate coordination and cooperation between bodies notified under this Regulation are put in place and properly operated in the form of a group or groups of notified bodies, where appropriate including groups of bodies notified under the same delegated act adopted pursuant to Article 4 or in relation to similar conformity assessment tasks.

Notified bodies shall participate in the work of any relevant group, directly or by means of designated representatives.

2. Notified bodies shall apply as general guidance any relevant documents produced as a result of the work of the groups referred to in paragraph 1.

3. The coordination and cooperation in the groups referred to in paragraph 1 of this Article shall be aimed at ensuring the harmonised application of this Regulation and of the delegated acts adopted pursuant to Article 4. In doing so, those groups shall take into account the relevant guidance and recommendations issued by the competent technical committees of the European standardisation bodies.

CHAPTER X

INCENTIVES

Article 64

Member State incentives

1. Where Member States provide incentives for products covered by a delegated act adopted pursuant to Article 4, those incentives shall be aimed at the highest two classes of performance that are populated at Union level or, where relevant, at products with an EU Ecolabel.

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2. By way of derogation from paragraph 1 of this Article, where Member States provide incentives for energy-related products or tyres covered by a delegated act adopted pursuant to Article 4 which are also subject to energy or fuel efficiency labelling requirements, Article 7(2) of Regulation (EU) 2017/1369 and Article 11 of Regulation(EU) 2020/740 shall apply respectively.

Article 65

Green public procurement

1. Contracting authorities and contracting entities shall, in compliance with Directive 2014/24/EU or 2014/25/EU, award public contracts complying with the minimum requirements set out pursuant to paragraph 2 of this Article for the purchase of products covered by delegated acts adopted pursuant to Article 4, or for works or services where those products are used for activities constituting the subject matter of those contracts (‘minimum requirements’).

2. The minimum requirements shall be set where appropriate, in order to incentivise the supply of and demand for environmentally sustainable products covered by delegated acts adopted pursuant to Article 4, taking into account the value and volume of public contracts awarded for the relevant product groups and the economic feasibility for contracting authorities and contracting entities to buy more environmentally sustainable products without entailing disproportionate costs.

3. The Commission is empowered to set, by means of implementing acts, the minimum requirements in the form of technical specifications, award criteria, contract performance conditions or targets.

The minimum requirements shall be set in relation to the product aspects addressed in the delegated act adopted pursuant to Article 4 applicable to the product groups in question, as relevant for those product groups.

The minimum requirements shall be based on the two highest performance classes, the highest scores or, when not available, on the best possible performance levels as set out in the delegated act adopted pursuant to Article 4 applicable to the product groups in question.

Award criteria shall, where appropriate, have a minimum weighting of between 15 % and 30 % in the awarding process which enables them to have a significant impact on the outcome of the tendering procedure and which favours the selection of the most environmentally sustainable products.

Targets shall require, on an annual or multiannual basis, a minimum percentage of 50 % of procurement conducted at the level of contracting authorities or contracting entities, or at an aggregated national level, of the most environmentally sustainable products as referred to in the fourth subparagraph.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 73(3).

CHAPTER XI

MARKET SURVEILLANCE

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Article 66

Planned market surveillance activities

1. Each Member State shall, in the national market surveillance strategy referred to in Article 13 of Regulation (EU) 2019/1020, provide a section on the market surveillance activities planned to ensure that appropriate checks, including, where appropriate, physical and laboratory checks, are performed on an adequate scale in relation to this Regulation and the delegated acts adopted pursuant to Article 4 of this Regulation.

The section referred to in the first subparagraph shall at least include:

(a) the products or requirements identified as priorities for market surveillance, taking into account the common priorities identified by the administrative cooperation group (‘ADCO’), set up pursuant to Article 30(2) of Regulation (EU) 2019/1020, in accordance with Article 68(1), point (a), and the reports pursuant to Article 67(2);

(b) the market surveillance activities planned in order to reduce or bring non-compliance to an end for those products or requirements identified as priorities, including the nature of the checks to be performed during the period covered by the national market surveillance strategy.

2. The priorities for market surveillance referred to in paragraph 1, second subparagraph, point (a), shall be identified on the basis of objective criteria, including:

(a) the levels of non-compliance observed in the market falling within the competence of the market surveillance authority;

(b) the environmental impacts of non-compliance;

(c) where available, 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 falling within the competence of the market surveillance authority; and

(e) the number of relevant economic operators active on the market falling within the competence of the market surveillance authority.

3. For product categories identified as representing a high risk of non-compliance, the checks referred to in paragraph 1 shall include, where appropriate, physical and laboratory checks based on adequate samples.

Market surveillance authorities shall have the right to recover from the economic operator responsible the costs of document inspection and physical product testing in the event of non-compliance with delegated acts adopted pursuant to Article 4.

Article 67

Reporting and benchmarking

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1. Market surveillance authorities shall enter into the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020 information on the nature and severity of any penalty imposed in relation to non-compliance with this Regulation.

2. The Commission shall, every four years, draw up a report by 30 June based on the information entered by market surveillance authorities into the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020.

That report shall include:

(a) information on the nature and number of checks performed by market surveillance authorities during the four preceding calendar years pursuant to Article 34(4) and (5) of Regulation (EU) 2019/1020;

(b) information on the levels of non-compliance identified and on the nature and severity of penalties imposed for the four preceding calendar years in relation to products covered by delegated acts adopted pursuant to Article 4 of this Regulation;

(c) a comparison of the information referred to in points (a) and (b) of this paragraph with the activities planned in the context of the section on the market surveillance activities drawn up pursuant to Article 66(1);

(d) indicative benchmarks for market surveillance authorities in relation to the frequency of checks and the nature and severity of penalties imposed;

(e) a list of priorities for market surveillance authorities in terms of products and requirements.

3. The Commission shall publish the report referred to in paragraph 2 of this Article in the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020 and shall make it public. The first of those reports shall be published by 19 July 2028.

Article 68

Market surveillance coordination and support

1. For the purposes of this Regulation, ADCO shall meet at regular intervals and, where necessary, at the reasoned request of the Commission or of two or more participating market surveillance authorities.

In the context of performing its tasks set out in Article 32 of Regulation (EU) 2019/1020, ADCO shall support the implementation of the section on market surveillance activities drawn up pursuant to Article 66(1) and shall identify:

(a) common priorities for market surveillance as referred to in Article 66(1), point (a), based on objective criteria as referred to in Article 66(2);

(b) priorities for Union support pursuant to paragraph 2;

(c) requirements set out in delegated acts adopted pursuant to Article 4 that are applied or interpreted differently and that should be priorities for the organisation of common training programmes or

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adoption of guidelines pursuant to paragraph 2 of this Article.

2. Based on priorities identified by ADCO, the Commission shall:

(a) organise joint market surveillance and testing projects in areas of common interest;

(b) organise joint investment in market surveillance capacities, including equipment and IT tools;

(c) organise common training programmes for the staff of market surveillance authorities, customs authorities, notifying authorities and notified bodies, including programmes on the correct interpretation and application of requirements set out in delegated acts adopted pursuant to Article 4 and on methods and techniques relevant for applying or verifying compliance with such requirements;

(d) draw up guidelines for the application and enforcement of requirements set out in delegated acts adopted pursuant to Article 4, including common practices and methodologies for effective market surveillance;

(e) where appropriate, consult with stakeholders and experts.

The Union shall, where appropriate, finance the actions referred to in the first subparagraph, points (a), (b) and (c).

3. The Commission shall provide technical and logistic support to ensure that ADCO fulfils its tasks set out in this Article and Article 32 of Regulation (EU) 2019/1020 where such tasks relate to this Regulation.

CHAPTER XII

SAFEGUARD PROCEDURES

Article 69

Procedure for dealing with products presenting a risk at national level

1. Where the market surveillance authorities have sufficient reason to believe that a product covered by a delegated act adopted pursuant to Article 4 presents a risk, they shall carry out an evaluation covering all requirements relevant to the risk and laid down in this Regulation or in that delegated act.

Where, in the course of that evaluation, the market surveillance authorities find that the product does not comply with the requirements laid down in this Regulation or in the applicable delegated act adopted pursuant to Article 4, they shall without delay require the relevant economic operator to take appropriate and proportionate corrective action, within a reasonable period prescribed by the market surveillance authorities and commensurate with the nature and, where relevant, the degree of the non-compliance, to bring the non-compliance to an end. That corrective action may include, inter alia, the actions listed in Article 16(3) of Regulation (EU) 2019/1020.

The market surveillance authorities shall inform the relevant notified body accordingly.

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2. Where the market surveillance authorities consider that non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the corrective action which they have required the economic operator to take.

3. The relevant economic operator shall ensure that all appropriate corrective action is taken in respect of all the products concerned that it has made available on the market throughout the Union.

4. Where the relevant economic operator does not take corrective action within the period referred to in paragraph 1, second subparagraph, or the non-compliance persists, the market surveillance authorities shall take all appropriate provisional measures to prohibit or restrict the making available of the product concerned on their national market, to withdraw it from that market or to recall it.

They shall inform the Commission and the other Member States, without delay, of those measures.

5. The information to be provided to the Commission and the other Member States in accordance with paragraph 4 of this Article shall be communicated through the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020 and shall include all available details, in particular the data necessary for the identification of the non-compliant product, the origin of the product, the nature of the non-compliance alleged and the non-compliance involved, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator. The market surveillance authorities shall also indicate whether the non-compliance is due to either:

(a) the failure of the product to meet requirements set out in the relevant delegated act adopted pursuant to Article 4 of this Regulation; or

(b) shortcomings in the harmonised standards or common specifications referred to in Articles 41 and 42 of this Regulation conferring a presumption of conformity.

6. Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the product concerned, and, in the event of disagreement with the notified national measure, of their objections.

7. Where, within three months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified. That provisional measure may specify a period other than three months in order to take account of the specificities of the products or requirements concerned.

8. Member States shall ensure that appropriate restrictive measures are taken in respect of the product concerned, such as withdrawal of the product from their market, without delay.

Article 70

Union safeguard procedure

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1. Where, on completion of the procedure set out in Article 69(3) and (4), objections are raised against a measure taken by a Member State, or where the Commission considers a national measure to be contrary to Union law, the Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall decide by means of an implementing act whether the national measure is justified or not.

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 73(3).

The Commission shall address its decision to all Member States and shall immediately communicate it to them and the relevant economic operator or operators.

2. If the national measure is considered justified, all Member States shall take the measures necessary to ensure that the non-compliant product is withdrawn from their market, and shall inform the Commission accordingly.

If the national measure is considered unjustified, the Member State concerned shall withdraw the measure.

3. Where the national measure is considered justified and the non-compliance of the product is attributed to shortcomings in the harmonised standards referred to in Article 41 of this Regulation, the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.

4. Where the national measure is considered justified and the non-compliance of the product is attributed to shortcomings in the common specifications referred to in Article 42, the Commission shall, without delay, adopt implementing acts amending or repealing the common specifications concerned.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 73(3).

Article 71

Formal non-compliance

1. Where a Member State makes one of the following findings, it shall require the relevant economic operator to bring the non-compliance concerned to an end:

(a) the CE marking has been affixed in violation of Article 30 of Regulation (EC) No 765/2008 or of Article 46 of this Regulation;

(b) the CE marking has not been affixed;

(c) the identification number of the notified body has been affixed in violation of Article 46 or has not been affixed where required;

(d) the EU declaration of conformity has not been drawn up;

(e) the EU declaration of conformity has not been drawn up correctly;

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(f) the technical documentation is not available, not complete or contains errors;

(g) the information referred to in Article 27(6) or Article 29(3) is absent, false or incomplete;

(h) any other administrative requirement provided for in Article 27 or Article 29 or in the applicable delegated act adopted pursuant to Article 4 is not fulfilled.

2. Where the non-compliance referred to in paragraph 1 persists, the Member State concerned 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 from the market.

CHAPTER XIII

DELEGATED POWERS AND COMMITTEE PROCEDURE

Article 72

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 4, Article 10(1), second subparagraph, Article 11, third paragraph, Article 12(4) and Article 25(3) and (5) shall be conferred on the Commission for a period of five years from 18 July 2024. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 4, Article 10(1), second subparagraph, Article 11, third paragraph, Article 12(4), and Article 25(3) and (5) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State acting in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 4, Article 10(1), second subparagraph, Article 11, third paragraph, Article 12(4), or Article 25(3) or (5) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of

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notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 73

Committee procedure

1. The Commission shall be assisted by a Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

CHAPTER XIV

FINAL PROVISIONS

Article 74

Penalties

1. Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, without delay, notify the Commission of those rules and of those measures and shall notify it of any subsequent amendment affecting them.

2. Member States shall ensure that the penalties established pursuant to this Article give due regard to the following, as applicable:

(a) the nature, gravity and duration of the infringement;

(b) where appropriate, the intentional or negligent character of the infringement;

(c) the financial situation of the natural or legal person held responsible;

(d) the economic benefits derived from the infringement by the natural or legal person held responsible, insofar as they can be determined;

(e) the environmental damage caused by the infringement;

(f) any action taken by the natural or legal person held responsible to mitigate or remedy the damage caused;

(g) the repetitive or singular character of the infringement;

(h) any other aggravating or mitigating factor applicable to the circumstances of the case.

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3. Member States shall at least be able to impose the following penalties in the event of infringements of this Regulation:

(a) fines;

(b) time-limited exclusion from public procurement procedures.

Article 75

Monitoring and evaluation

1. Among the relevant preparatory documents for the update of the working plan in accordance with Article 18(3), the Commission shall compile a report on the ecodesign requirements with a view to monitoring the improvements of the environmental sustainability and circularity of the products covered by this Regulation.

2. By 19 July 2030, and every six years thereafter, the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market, including as regards the reuse and refurbishing sector, the vehicles referred to in Article 1(2), point (h), and the obligations laid down in Chapter VI, in particular the exemptions for small and microenterprises, and to the improvement of the environmental sustainability of products. As part of that evaluation, the Commission shall assess the feasibility of including automatic adaptation of ecodesign requirements on the basis of improvement of product performance in the products that are being placed on the market. The Commission shall present a report on the main findings of its evaluation to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions, and make it publicly available.

3. Member States shall provide the Commission with the information necessary for the preparation of the reports referred to in paragraphs 1 and 2.

4. By 19 July 2028, the Commission shall evaluate the potential benefits of the inclusion of social sustainability requirements within the scope of this Regulation. The Commission shall present a report on the main findings of its evaluation to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions, and make it publicly available.

5. Where appropriate, the Commission shall accompany the reports referred to in paragraphs 2 and 4 with a legislative proposal for amendment of this Regulation.

Article 76

Consumer redress

In the event of non-compliance of a product with ecodesign requirements set in the delegated acts adopted pursuant to Article 4, the following economic operators shall be liable for damage suffered by the consumer:

(a) the manufacturer; or,

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(b) in the event that the manufacturer is not established in the Union, and without prejudice to its own liability, the importer or the authorised representative of the manufacturer; or,

(c) in the event that the importer is not established in the Union or there is no authorised representative of the manufacturer, the fulfilment service provider.

The liability of those economic operators for damage shall be without prejudice to the application of other remedies available to consumers under Union or national law.

Article 77

Amendment of Directive (EU) 2020/1828

Point (27) of Annex I to Directive (EU) 2020/1828 is replaced by the following:

‘(27)Regulation (EU) 2024/1726 of the European Parliament and of the Council of 13 June 2024 establishing a framework for the setting of ecodesign requirements for sustainable products, amending Directive (EU) 2020/1828 and Regulation (EU) 2023/1542 and repealing Directive 2009/125/EC (OJ L, 2024/1726, 28.6.2024, ELI: http://data.europa.eu/eli/reg/2024/1726/oj)’.

Article 78

Amendment of Regulation (EU) 2023/1542

In Article 77 of Regulation (EU) 2023/1542, the following paragraph is added:

‘10. The economic operator placing the battery on the market or putting it into service shall upload the unique identifier in the registry referred to in Article 13(1) of Regulation (EU) 2024/1726 of the European Parliament and of the Council ([*1]).

Article 79

Repeal and transitional provisions

1. Directive 2009/125/EC is repealed with effect from 18 July 2024, with the exception of:

(a) Articles 1 and 2, Article 8(2), Articles 11, 14, 15, 18 and 19 of, and Annexes I, II, IV, V and VII to, Directive 2009/125/EC in the version applicable on 17 July 2024, which, instead of Articles 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 19 and 20 of, and Annexes I, II, III and IV to, this Regulation, shall continue to apply:

(i) until 31 December 2026, as regards photovoltaic panels, space and combination heaters, water heaters, solid fuel local space heaters, air conditioners including air-to-air heat pumps and comfort fans, solid fuel boilers, air heating and cooling products, ventilation units, vacuum cleaners, cooking appliances, water pumps, industrial fans, circulators, external power supplies, computers, servers and data storage products, power transformers, professional refrigeration equipment and imaging equipment;

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(ii) until 31 December 2030, as regards products regulated by implementing measures that are adopted pursuant to Article 15 of Directive 2009/125/EC, however only insofar as amendments are necessary to address technical issues with regard to those implementing measures;

(b) Article 1(3), Article 2, Article 3(1), Articles 4, 5 and 8, Article 9(3), Articles 10, 14 and 20 of, and Annexes IV, V and VI to, Directive 2009/125/EC in the version applicable on 17 July 2024, which, instead of Articles 1, 2, 27 and 29, Article 41(4), Article 43(2), Articles 44, 45 and 46 and Article 74 of, and Annexes IV and V to, this Regulation, shall continue to apply as regards products regulated by implementing measures that are adopted pursuant to Article 15 of that Directive until such measures are repealed or declared obsolete.

Point (b) of this paragraph shall apply once the Commission has adopted implementing measures pursuant to Article 15 of Directive 2009/125/EC for the products referred to in points (a)(i) and (ii).

2. Articles 3 and 40 and Articles 66 to 71 of this Regulation shall apply to products regulated by implementing measures that are adopted pursuant to Article 15 of Directive 2009/125/EC.

3. References to the repealed Directive shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex VIII.

4. For products placed on the market or put into service in accordance with Directive 2009/125/EC before the date of application of a delegated act adopted pursuant to Article 4 of this Regulation covering the same products, the manufacturer shall, for a period of 10 years from the date when the last of those products was manufactured, make an electronic version of the documentation relating to the conformity assessment and the declaration of conformity available for inspection within 10 days of a request received from market surveillance authorities or the Commission.

Article 80

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 June 2024.

For the European Parliament

The President

R. METSOLA

For the Council

The President

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([1]) OJ C 443, 22.11.2022, p. 123.

([2]) Position of the European Parliament of 23 April 2024 (not yet published in the Official Journal) and decision of the Council of 27 May 2024.

([3]) Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (OJ L 285, 31.10.2009, p. 10).

([4]) OJ C 425, 20.10.2021, p. 10.

([5]) OJ C 465, 17.11.2021, p. 11.

([6]) OJ L 282, 19.10.2016, p. 4.

([7]) Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).

([8]) Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (‘European Climate Law’) (OJ L 243, 9.7.2021, p. 1).

([9]) Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency (OJ L 328, 21.12.2018, p. 210).

([10]) Decision (EU) 2022/591 of the European Parliament and of the Council of 6 April 2022 on a General Union Environment Action Programme to 2030 (OJ L 114, 12.4.2022, p. 22).

([11]) 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 (OJ L 198, 28.7.2017, p. 1).

([12]) Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel (OJ L 27, 30.1.2010, p. 1).

([13]) Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

([14]) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67).

([15]) Regulation (EU) 2019/6 of the European Parliament and of the Council of 11 December 2018 on veterinary medicinal products and repealing Directive 2001/82/EC (OJ L 4, 7.1.2019, p. 43).

([16]) Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles (OJ L 60, 2.3.2013, p. 1).

([17]) Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles (OJ L 60, 2.3.2013, p. 52).

([18]) Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1).

([19]) Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles (OJ L 269, 21.10.2000, p. 34).

([20]) Directive 2005/64/EC of the European Parliament and of the Council of 26 October 2005 on the type-approval of motor vehicles with regard to their reusability, recyclability and recoverability and amending Council Directive 70/156/EEC (OJ L 310, 25.11.2005, p. 10).

([21]) Directive (EU) 2024/1275 of the European Parliament and of the Council of 24 April 2024 on the energy performance of buildings (OJ L, 2024/1275, 8.5.2024, ELI: http://data.europa.eu/eli/dir/2024/1275/oj).

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([22]) Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).

([23]) Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC (OJ L 117, 5.5.2017, p. 1).

([24]) Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on in vitro diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU (OJ L 117, 5.5.2017, p. 176).

([25]) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

([26]) Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

([27]) Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

([28]) Commission Recommendation (EU) 2021/2279 of 15 December 2021 on the use of the Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organisations (OJ L 471, 30.12.2021, p. 1).

([29]) European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

([30]) Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC (OJ L 338, 13.11.2004, p. 4).

([31]) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

([32]) Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

([33]) Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (OJ L 342, 22.12.2009, p. 59).

([34]) Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants (OJ L 169, 25.6.2019, p. 45).

([35]) Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys (OJ L 170, 30.6.2009, p. 1).

([36]) Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (OJ L 174, 1.7.2011, p. 88).

([37]) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

([38]) Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

([39]) Regulation (EU) 2022/2399 of the European Parliament and of the Council of 23 November 2022 establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013 (OJ L 317, 9.12.2022, p. 1).

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([40]) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

([41]) Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).

([42]) Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

([43]) Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce) (OJ L 178, 17.7.2000, p. 1).

([44]) Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1).

([45]) Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

([46]) Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12).

([47]) OJ C 136, 4.6.1985, p. 1.

([48]) Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC (OJ L 218, 13.8.2008, p. 82).

([49]) Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

([50]) Regulation (EU) 2020/740 of the European Parliament and of the Council of 25 May 2020 on the labelling of tyres with respect to fuel efficiency and other parameters, amending Regulation (EU) 2017/1369 and repealing Regulation (EC) No 1222/2009 (OJ L 177, 5.6.2020, p. 1).

([51]) Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

([52]) Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

([53]) Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ L 82, 22.3.1997, p. 1).

([54]) OJ L 123, 12.5.2016, p. 1.

([55]) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

([56]) Directive (EU) 2019/771 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the sale of goods, amending Regulation (EU) 2017/2394 and Directive 2009/22/EC, and repealing Directive 1999/44/EC (OJ L 136, 22.5.2019, p. 28).

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([57]) Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (OJ L 409, 4.12.2020, p. 1).

([58]) Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

([59]) Regulation (EU) 2018/1807 of the European Parliament and of the Council of 14 November 2018 on a framework for the free flow of non-personal data in the European Union (OJ L 303, 28.11.2018, p. 59).

([60]) Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

([61]) Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 concerning batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC (OJ L 191, 28.7.2023, p. 1).

([62]) Regulation (EU) 2023/988 of the European Parliament and of the Council of 10 May 2023 on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council and Directive (EU) 2020/1828 of the European Parliament and the Council, and repealing Directive 2001/95/EC of the European Parliament and of the Council and Council Directive 87/357/EEC (OJ L 135, 23.5.2023, p. 1).

ANNEX I

Product parameters

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 on the product, 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, use of component and material coding standards for the identification of components and materials, number and complexity of processes and whether specialised tools are needed, 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, use of component and material coding standards for the identification of components and materials, number and complexity of processes and tools needed, 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, conditions of access to test protocols or not commonly available testing equipment, availability of guarantees specific to remanufactured or refurbished products, conditions for access to or use of technologies protected by intellectual property rights, modularity;

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(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 or components and materials containing hazardous substances and material composition and homogeneity, possibility for high-purity sorting, number of materials and components used, use of standard components, use of component and material coding standards for the identification of components and materials, number and complexity of processes and tools needed, 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;

(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 as expressed, inter alia, through yield, technical lifetime, ability to reuse, repair, and remanufacture, mass-resource efficiency, and interoperability;

(m) the environmental footprint of the product, expressed as a quantification, in accordance with the applicable delegated act, of a product’s life cycle environmental impacts, whether in relation to one or more environmental impact categories or an aggregated set of impact categories;

(n) the carbon footprint of the product;

(o) the material footprint of the product;

(p) microplastic and nanoplastic release as expressed through the release during relevant product life cycle stages, including manufacturing, transport, use and end-of-life stages;

(q) emissions to air, water or soil released in one or more lifecycle stages of the product as expressed through quantities and nature of emissions, including noise;

(r) amounts of waste generated, including plastic waste and packaging waste and their ease of reuse, and amounts of hazardous waste generated;

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(s) functional performance and conditions for use, including as expressed through the ability to perform its intended use, precautions for use, skills required and compatibility with other products or systems;

(t) lightweight design as expressed through reduction of material consumption, load- and stress-optimisation of structures, integration of functions within the material or into a single product component, use of lower density or high-strength materials and hybrid materials, with regard to material savings, recycling and other circularity aspects, and waste reduction.

ANNEX II

Procedure for defining performance requirements

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 Annex I, 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 of usefulness for consumers.

The analysis referred to in the first paragraph shall also 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 during the analysis referred to in the first paragraph as well as when setting requirements.

Based on the analysis referred to in the first paragraph, 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 as referred to in Annex I, point (f), 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. Any performance requirement concerning substances as referred to in Annex I, point (f), shall take into consideration existing chemical safety assessments performed by the relevant Union bodies for the substances concerned, as well as safe and sustainable by design criteria for chemicals and materials developed by the Commission. Proposed concentration limits shall also consider aspects of enforceability, such as analytical detection limits.

Where relevant, the analysis referred to in the first paragraph shall take into account the likely impacts of climate change on the product during its prospective lifetime, and the product's potential to improve climate resilience throughout its life cycle.

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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.

For the development of the analysis referred to in the first subparagraph, relevant information available in the framework of other Union activities, including, among others, existing sectoral roadmaps as referred to in Regulation (EU) 2021/1119, shall be taken into account and shall include technical information used as a basis for or derived from Regulation (EC) No 66/2010, Directive 2010/75/EU, technical screening criteria adopted pursuant to Regulation (EU) 2020/852 and EU green public procurement criteria.

That shall also apply for information available from existing programmes applied in other parts of the world for setting the specific ecodesign requirements for products traded with the Union’s economic partners.

ANNEX III

Digital product Passport

(referred to in Articles 9 to 12)

The requirements related to the digital product passport laid down in the delegated acts adopted pursuant to Article 4 shall specify what data are to or can be included in the digital product passport from among the following elements:

(a) information required under Article 7(2), point (b), and Article 7(5) or by other Union law applicable to the relevant product group;

(b) the unique product identifier at the level indicated in the applicable delegated act adopted pursuant to Article 4;

(c) the Global Trade Identification Number as provided for in International Organization for Standardisation/International Electrotechnical Commission standard ISO/IEC 15459-6 or equivalent of products or their parts;

(d) relevant commodity codes, such as a TARIC code as defined in Regulation (EEC) No 2658/87;

(e) compliance documentation and information required under this Regulation or other Union law applicable to the product, such as the declaration of conformity, technical documentation or conformity certificates;

(f) user manuals, instructions, warnings or safety information, as required by other Union law applicable to the product;

(g) information related to the manufacturer, such as its unique operator identifier and the information referred to in Article 27(7);

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(h) unique operator identifiers other than that of the manufacturer;

(i) unique facility identifiers;

(j) information related to the importer, including the information referred to in Article 29(3) and its Economic Operators Registration and Identification (EORI) number;

(k) the name, contact details and unique operator identifier of the economic operator established in the Union responsible for carrying out the tasks set out in Article 4 of Regulation (EU) 2019/1020 or Article 15 of Regulation (EU) 2023/988, or similar tasks pursuant to other Union law applicable to the product;

(l) the reference of the digital product passport service provider hosting the back-up copy of the digital product passport.

The data carrier, the unique product identifier referred to in point (b), the unique operator identifiers referred to in points (g), (h) and (k), and the unique facility identifiers referred to in point (i) shall, where relevant for the products concerned, 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.

The delegated acts adopted pursuant to Article 4 shall identify information relevant to ecodesign requirements that manufacturers may include in the digital product passport in addition to the information required pursuant to Article 9(2), point (a), including information on specific voluntary labels applicable to the product. That shall include whether an EU Ecolabel has been awarded to the product in line with Regulation (EC) No 66/2010.

ANNEX IV

Internal production control

(Module A)

1. Internal production control is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3 and 4, and ensures and declares on its sole responsibility that the product satisfies the requirements of the delegated act adopted pursuant to Article 4.

2. Technical documentation

The manufacturer shall establish the technical documentation. The documentation shall make it possible to assess the product's conformity to the requirements of the delegated act adopted pursuant to Article 4. The technical documentation shall specify the applicable requirements and cover, as far as relevant for the assessment, 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,

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— conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.

— descriptions and explanations necessary for the understanding of those drawings and schemes and the operation of the product,

— a list of the harmonised standards, common specifications or other relevant technical specifications the references of which have been published in the *Official Journal of the European Union*, applied in full or in part, and descriptions of the solutions adopted to meet the requirements where those harmonised standards have not been applied. In the event of partly applied harmonised standards, the technical documentation shall specify the parts which have been applied,

— results of design calculations made, examinations carried out, etc,

— the results of measurements carried out in relation to ecodesign requirements, including details of the conformity of these measurements as compared with the ecodesign requirements set out in the delegated act adopted pursuant to Article 4,

— test reports, and

— a copy of the information provided in accordance with the information requirements pursuant to Article 7.

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 referred to in point 2 and with requirements of the delegated act adopted pursuant to Article 4.

4. CE marking and EU declaration of conformity

The manufacturer shall affix the required conformity marking to each individual product that satisfies requirements of the delegated act adopted pursuant to Article 4.

The manufacturer shall draw up a written declaration of conformity for each product model in accordance with Article 44 and keep it, together with the technical documentation, at the disposal of the competent national authorities 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 relevant authorities upon request.

5. Authorised representative

The manufacturers’ obligations set out in point 4 may be fulfilled by their authorised representative, on their behalf and under their responsibility, provided that the obligations are specified in the mandate.

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ANNEX V

EU declaration of conformity

(referred to in Article 44)

1. No … (unique identification of the product):

2. Name and address of the manufacturer and, where applicable, the manufacturer’s authorised representative:

3. This 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 for the identification of the product, include an image):

5. The object of the declaration referred to in point (4) is in conformity with this Regulation, the delegated act adopted pursuant to Article 4 and, where applicable, other Union harmonisation legislation:

6. References to the relevant harmonised standards or to the common specifications used or references to the other technical specifications in relation to which conformity is declared:

7. Where applicable, the notified body … (name, number) performed … (description of intervention) and issued the certificate or approval decision … (number):

8. Where appropriate, the reference to other Union law providing for the affixing of the CE mark 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:

Signed for and on behalf of:

(place and date of issue):

(name, function) (signature):

ANNEX VI

Criteria for self-regulation measures

(referred to in Article 21)

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The following non-exhaustive list of criteria shall be used to assess self-regulation measures in accordance with Article 21:

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 self-regulation measure, including SMEs and third country operators, both in the preparatory and in the implementation phases. Economic operators intending to establish a self-regulation measure should make a public announcement of their intention to do so before the process of developing the measure is started.

2. Sustainability and added value

   Self-regulation measures must respond to the policy objectives of this Regulation and must be consistent with the economic and social dimensions of sustainable development. Self-regulation measures must have an integrated approach to the protection of the environment, interests of consumers, health, quality of life and economic interests.

3. Representativeness

   Industry and its related associations taking part in a self-regulation measure must represent a large majority of the relevant economic sector, in accordance with Article 21(3), first subparagraph, point (b). Care must be taken to ensure respect for Union competition law, in particular Article 101 TFEU regarding anti-competitive agreements.

4. Quantified and staged objectives

   The objectives defined by the signatories in their self-regulation measures must be set in clear, quantifiable and unambiguous terms, starting from a well-defined baseline. If the self-regulation measure covers a long time-span, interim targets must be included. It must be possible to monitor compliance with objectives and interim targets in an affordable and credible way using clear and reliable indicators.

5. Involvement of civil society

   With a view to ensuring transparency, self-regulation measures must be publicised, including online on a publicly and freely accessible website and via other electronic means of disseminating information.

   Stakeholders, including Member States, industry, environmental NGOs and consumers' associations, shall be invited to comment on a self-regulation measure.

6. Monitoring and reporting

   An independent inspector must be selected and nominated in order to monitor compliance of signatories with the self-regulation measure. The self-regulation measure must empower the independent inspector to verify compliance with its requirements. The self-regulation measure must also lay down the procedure to select the independent inspector and the rules to ensure that

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the inspector has no conflict of interest and has the necessary skills for verifying compliance with its requirements.

Every year, each signatory must report all the information and data necessary for the independent inspector to reliably verify the signatory's compliance with the self-regulation measure.

The independent inspector must draw up a compliance report at the end of each one-year reporting period.

Where a signatory does not comply with the requirements of the self-regulation measure, it must take corrective action. The independent inspector shall notify the other signatories participating in the self-regulation measure of a lack of compliance by a signatory and of the corrective action the signatory intends to take.

The results of any market surveillance activity conducted by a market surveillance authority during which non-compliance with the self-regulation measures requirements has been identified shall be taken into account by the independent inspector, in particular in the compliance report, and corrective action shall be taken.

7. Cost-effectiveness of administering a self-regulation measure

The cost of administering the self-regulation measure, in particular as regards monitoring, must not lead to a disproportionate administrative burden, as compared to its objectives and to other available policy instruments.

ANNEX VII

Consumer products of which the destruction by economic operators is prohibited

The commodity codes and descriptions are taken from the combined nomenclature as referred to in Article 1(2) of Regulation (EEC) No 2658/87 and as set out in Annex I thereto, in the version in force on 28 June 2024.

Commodity code	Description
1. Apparel and clothing accessories	
4203	Articles of apparel and clothing accessories, of leather or composition leather
61	Articles of apparel and clothing accessories, knitted or crocheted
62	Articles of apparel and clothing accessories, not knitted or crocheted
6504	Hats and other headgear, plaited or made by assembling strips of any material, whether or not lined or trimmed
6505	Hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not

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	in strips), whether or not lined or trimmed; hairnets of any material, whether or not lined or trimmed
2. Footwear	
6401	Waterproof footwear with outer soles and uppers of rubber or of plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging or similar processes
6402	Other footwear with outer soles and uppers of rubber or plastics
6403	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather
6404	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials
6405	Other footwear

ANNEX VIII

Correlation table

Directive 2009/125/EC	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3	—
Article 4	Article 29
Article 5	Articles 44, 45 and 46
Article 6	Article 3
Article 7	Articles 69, 70 and 71
Article 8	Articles 27 and 43
Article 9	Article 41
Article 10	—
Article 11	Article 38
Article 12	Article 68
Article 13	Article 22
Article 14	Article 7
Article 15	Articles 4 and 5

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Article 16	Article 18
Article 17	Article 21
Article 18	Article 19
—	Article 24
—	Article 28
—	Articles 30 to 40
—	Article 42
—	Articles 47 to 67
—	Article 72
Article 19	Article 73
Article 20	Article 74
Article 21	Article 75
Article 22	—
Article 23	—
Article 24	Article 79
Article 25	Article 80
Article 26	—
Annex I	Articles 5, 7, Annex I
Annex II	Annex II
—	Annex III
Annex III	—
Annex IV	Annex IV
Annex V	—
Annex VI	Annex V
Annex VII	Article 8 -
Annex VIII	Annex VI
Annex IX	—
Annex X	Annex VIII

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