



Energy Efficiency (Energy Using Products) Regulations 2002

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 5th day of February 2002

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 36(1) of the Energy Efficiency and Conservation Act 2000, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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and list of relevant standards that apply

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Regulations

1 Title

These regulations are the Energy Efficiency (Energy Using Products) Regulations 2002.

2 Commencement

These regulations come into force on 1 April 2002.

3 Interpretation

In these regulations, unless the context otherwise requires,—
accredited laboratory means—

- (a) a laboratory accredited for the relevant test by the Testing Laboratory Registration Council of New Zealand operating as International Accreditation New Zealand; or
- (b) an equivalent overseas laboratory recognised by International Accreditation New Zealand under a mutual recognition agreement

Authority means the Energy Efficiency and Conservation Authority established under section 20 of the Energy Efficiency and Conservation Act 2000

consumer means a person who acquires an item for use; but excludes any person who acquires an item for the purpose of—

- (a) resupplying the item in trade; or
- (b) using the item in a process of production or manufacture

display front means a representation of the front of an item presented for public viewing in a retail outlet

item means an individual product

manufacture includes any modification to an item that affects the item's energy performance characteristics

model means a range of items of the same brand where each item has the same energy performance characteristics

prescribed form means the form prescribed in the relevant standards

registered in Australia means registered under the laws of any State or Territory of Australia that relate to minimum energy performance standards or mandatory energy performance labelling

sample means an item that is a representative example of a model

second-hand item means an item that has been used by a consumer in New Zealand

standards means the standards for the product classes listed in Schedule 1 or Schedule 2

test report means a report of the test results of a sample that is presented in the prescribed form

working day means any day of the week other than—

- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, and Labour Day; and
- (b) a day in the period commencing with 20 December in a year and ending with 15 January in the following year.

Minimum energy performance standards

4 Duties of manufacturers and importers

- (1) A person who manufactures in New Zealand or imports into New Zealand an item in a product class described in Schedule 1, or an assembly that incorporates that item, may not sell that item or the assembly to any other person in New Zealand unless—
 - (a) the energy performance characteristics of that item comply with the standards for that item's product class; and
 - (b) the manufacturer or importer completes and submits the prescribed form for that item's product class to the Authority.
- (2) The manufacturer or importer must, if the Authority requests, supply a copy of the test report for a sample to the Authority within 5 working days of receiving the request.

- (3) Subclause (1)(b) does not apply if the item's model is registered in Australia.
- (4) This regulation does not apply if the item is intended to be exported from New Zealand.

5 Duties of persons dealing directly with consumers

A person may not make available for sale, lease, hire, or hire purchase in New Zealand an item in a product class described in Schedule 1, or an assembly that incorporates that item, to a consumer unless the energy performance characteristics of that item comply with the standards for that item's product class.

Requirements in relation to labelling

6 Duties of manufacturers and importers

- (1) A person who manufactures in New Zealand or imports into New Zealand an item in a product class described in Schedule 2 may not sell that item to any other person in New Zealand unless—
 - (a) a label that complies with the standards for that item's product class—
 - (i) is attached to that item as required by those standards; or
 - (ii) is supplied with that item along with instructions on how to attach the label to that item as required by those standards; and
 - (b) the model and brand designations on the label correspond to the model and brand designations of that item; and
 - (c) the energy performance characteristics information on the label corresponds with the energy performance characteristics for that item; and
 - (d) the manufacturer or importer completes and submits the prescribed form for that item's product class to the Authority.
- (2) The manufacturer or importer must, if the Authority requests, supply a copy of the test report for a sample to the Authority within 5 working days of receiving the request.
- (3) Subclause (1)(d) does not apply if the item's model is registered in Australia.

- (4) This regulation does not apply if the item is intended to be exported from New Zealand.

7 Duties of persons dealing directly with consumers

- (1) A person may not make available for sale, lease, hire, or hire purchase in New Zealand an item in a product class described in Schedule 2 to a consumer unless—
- (a) a label that complies with the standards for that item's product class is attached to that item and to any display front as required by those standards; and
 - (b) the model and brand designations on the label correspond to the model and brand designations of that item.
- (2) Despite anything in subclause (1), if a person who is selling, leasing, or hiring out an item received from another person in a packaged form does not unpack the item before supplying that item to a consumer, a label need not be attached to that item, but the label must be supplied to the consumer with that item.

General requirements and exemptions

8 Requirement for representations to be in accordance with standards

- (1) This regulation applies if—
- (a) representations are made about a model that is in a product class described in Schedule 1 or Schedule 2; and
 - (b) those representations are made—
 - (i) in trade; or
 - (ii) in connection with—
 - (A) the sale of an item of the model to a person in New Zealand; or
 - (B) the lease, hire, or hire purchase of an item of the model by a person in New Zealand.
- (2) If this regulation applies, a person may not make—
- (a) a representation about the energy performance characteristics of the model that is inconsistent with the standards for that model; or
 - (b) a false or misleading representation about the energy performance characteristics of the model.

- (3) In this regulation, trade has the same meaning as in section 2(1) of the Fair Trading Act 1986.

9 Requirement to provide information for statistical purposes

- (1) A person who manufactures in New Zealand or imports into New Zealand an item in a product class described in Schedule 1 or Schedule 2, or an assembly that incorporates that item, must provide the Authority with the following information every year no later than 4 months after the end of each year:
- (a) the number of items of each model that the person sold in New Zealand in that year; and
 - (b) the number of items of each model that the person exported from New Zealand in that year; and
 - (c) the number of items of each model that the person imported into New Zealand that year; and
 - (d) the name of each model that the person discontinued—
 - (i) manufacturing in that year; or
 - (ii) exporting in that year; or
 - (iii) importing in that year; and
 - (e) a copy of any existing test report, or other energy performance data specified by the Authority, for each model named under paragraph (d).
- (2) If asked by the Authority in writing, a person who manufactures in New Zealand or imports into New Zealand an energy-using item must provide the following information no later than 40 working days after receiving the request:
- (a) the number of items in each product class specified by the Authority that the person sold to a purchaser in New Zealand in each of the preceding 3 years; and
 - (b) the energy performance characteristics of the items (as specified in the request).
- (3) In this regulation, **year** means the period from 1 April to 31 March.

10 Requirement for further information

If asked by the Authority in writing, a person who manufactures in New Zealand or imports into New Zealand an item in a product class described in Schedule 1 with a rating greater than 30 kW or 30 kVA must provide the Authority with a test

report for a sample that is certified by an accredited laboratory within—

- (a) 40 working days of receiving the request; or
- (b) if the test report must be obtained from an overseas laboratory, 80 working days of receiving the request.

11 Exemption for second-hand items

Regulations 4 to 9 and 12 to 16 do not apply to second-hand items.

12 Exemptions for minimal quantities

- (1) Regulations 4(2), 6, and 7 do not apply if—
 - (a) the total quantity of items of the same model manufactured in New Zealand or imported into New Zealand does not exceed 50, regardless of who manufactured or imported the items; and
 - (b) the manufacturer or importer of the item has completed and submitted to the Authority the form set out in Schedule 3.
- (2) Despite subclause (1), if asked by the Authority in writing, the manufacturer or importer of an item must provide the Authority with any information on the energy performance characteristics of the item or items (as specified in the request) no later than 20 working days after receiving the request.

Offences and defences

13 Offences

- (1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 who—
 - (a) contravenes any of regulations 4 to 7, 8(2)(a), 9, 10 or 12(2); or
 - (b) prepares or signs a prescribed form or a form required under regulation 12(1)(b) knowing that the information contained in it, or on which it is based, is false.
- (2) Each contravention of any of regulations 4 to 7, 8(2)(a), 9, 10 or 12(2) is a separate offence.
- (3) In any prosecution for an offence arising out of the contravention of any of regulations 4 to 7 and 8(2)(a), it is not necessary to prove that the defendant intended to commit the offence.

- (4) Every person who contravenes regulation 8(2)(b) commits an offence under the Fair Trading Act 1986 and is liable in accordance with section 40 of that Act.

14 Defences

- (1) It is a defence to a prosecution for an offence against regulation 4 if the defendant proves that the defendant—
- (a) did not know that the energy performance characteristics of the item did not comply with the standards for that item's product class; and
 - (b) reasonably relied on information supplied by—
 - (i) an overseas manufacturer who is the item's manufacturer; or
 - (ii) a laboratory that has tested a sample for compliance with the relevant standards.
- (2) It is a defence to a prosecution for an offence against regulation 5 if the defendant proves that—
- (a) the defendant did not know that the energy performance characteristics of the item did not comply with the standards for that item's product class; and
 - (b) the defendant—
 - (i) exercised reasonable care to ascertain whether or not the energy performance characteristics of that item complied with the relevant standards; or
 - (ii) reasonably relied on representations or information from the person who supplied that item to the defendant.
- (3) It is a defence to a prosecution for an offence against regulation 6(1)(c) if the defendant proves that the defendant—
- (a) did not know that the information on the label did not correspond with the energy performance characteristics for that item; and
 - (b) reasonably relied on information supplied by—
 - (i) an overseas manufacturer who is that item's manufacturer; or
 - (ii) a laboratory that has tested a sample for compliance with the relevant standards.
- (4) The defendant may not assert reasonable reliance on another person or laboratory unless—

- (a) the defendant has, no later than 7 days before the proceedings, served on the informant a notice in writing that identifies that person; or
- (b) the District Court gives leave.

Transitional provisions

15 Transitional provisions for pre-existing items

Regulations 4 and 5 do not apply to an item if that item—

- (a) was manufactured in New Zealand before 1 July 2002; or
- (b) was imported into New Zealand before 1 July 2002.

16 Transitional provisions for electric storage water heaters and ballasts for fluorescent lamps

Despite anything in regulation 15, regulations 4 and 5 do not apply to an electric storage water heater or a ballast for a fluorescent lamp if the heater or ballast was manufactured in, or imported into, New Zealand before 1 February 2003.

Schedule 1

rr 4(1), 5, 8(2), 9(1), 10

List of product classes subject to minimum energy performance standards and list of relevant standards that apply

Product class	MEPS	Testing standards
Household refrigerating appliances	AS/NZS 4474.2	AS/NZS 4474.1
Low-pressure copper thermal storage electric water heaters	NZS 4602	NZS 4602
Storage water heaters (electrically heated)	NZS 4606	NZS 4606
Tubular fluorescent lamps	NZHB 4782.2	IEC 60081
Ballasts for fluorescent lamps	NZHB 4783.2	AS/NZS 4783.1
Three-phase air conditioners	AS/NZS 3823.2	AS/NZS 3823.1.2 or AS/NZS 3823.3
Three-phase cage induction motors	AS/NZS 1359.5	AS/NZS 1359.102.3

rr 6(1), 7(1), 8(2), 9(1)

Schedule 2**List of product classes subject to mandatory energy performance labelling and list of relevant standards that apply**

Product class	MEPL	Testing standards
Household refrigerating appliances	AS/NZS 4474.2	AS/NZS 4474.1
Dishwashers	AS/NZS 2007.2	AS/NZS 2007.1
Rotary clothes dryers	AS/NZS 2442.2	AS/NZS 2442.1
Clothes washing machines	AS/NZS 2040.2	AS/NZS 2040.1
Single-phase non-ducted air conditioners and heat pumps	AS/NZS 3823.2	AS/NZS 3823.1.1
Single-phase ducted air conditioners and air-to-air heat pumps	AS/NZS 3823.2	AS/NZS 3823.1.2

Schedule 3
Quantity form

r 12(1)(b)

I am importing (*or* manufacturing) a model in a quantity of [*number*] items or less.

Name and business details

Name of person making this declaration:

Name of company:

Business address:

Suburb/town:

Supplier contact:

Position/title:

Phone:

Fax:

Email:

Description of model

Brand name:

Model name:

Model number or family number:

Country of manufacture:

Serial numbers of items for which exemption is being claimed:

Declaration

I declare that the details stated above are true and correct.

Signature of declarant:

[*Date*]

Marie Shroff,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 April 2002, introduce minimum energy performance standards for items in the product classes specified in *Schedule 1*. They also introduce labelling requirements for the items in the product classes specified in *Schedule 2*.

Issued under the authority of the Acts and Regulations Publication Act 1989.
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These regulations are administered in the Ministry for the Environment.
